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SOLICITORS' JOURNAL

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CURRENT TOPICS

Matrimonial Proceedings

THE Matrimonial Proceedings (Magistrates' Courts) Act, 1960 (Commencement) Order, 1960 (S.I. 1960 No. 2223), fixes 1st January, 1961, as the date when the Act comes into force. The Act consolidates the existing law governing matrimonial proceedings (i.e., proceedings for separation, maintenance of spouse and children, and custody, etc., of children) in magistrates' courts. One effect of the new Act will be to increase the maximum weekly maintenance payments which a magistrates' court may order from £5 to £7 10s. for a husband or a wife, and from £1 10s. to £2 10s. for a child. The classes of children in respect of which the court can make an order is extended so that they will now include a legitimate, illegitimate and adopted child of both parties, or a child in any of these categories of one party who has been accepted by the other as a member of the family. The Act also enables the court to order each parent to contribute up to £2 10s. a week towards the maintenance of a child who is given to the custody of a third person, or placed in the care of a local authority under the new provisions in the Act. The relief available to a husband becomes much the same as that available to a wife, and the court is enabled in special circumstances to order a wife to contribute to her husband's maintenance. Magistrates' courts will have power to make orders under the new Act, and to vary and add to existing orders so that they contain any of the new provisions, including the provisions relating to increased payments, if the court is satisfied by the person seeking the provision that it should be made. The Magistrates' Courts (Matrimonial Proceedings) Rules, 1960 (S.I. 1960 No. 2229), also operative on 1st January, prescribe forms for use in proceedings in magistrates' courts under the 1960 Act and contain other provisions about the procedure to be followed in those proceedings; r. 7 specifies the persons who are to be made defendants to complaints for the revocation, revival or variation of matrimonial or interim orders under that Act (the provisions of which were considered in an article at p. 712, *ante*; see also p. 837, *ante*).

Driving Licences for Motor Cycles

THE Road Traffic Act, 1960, s. 97, re-enacting earlier legislation, declares that a person shall not drive a motor cycle or invalid carriage on a road if he is under the age of sixteen, but it allows the making of regulations to prescribe a higher age in relation to motor cycles. The Road Traffic (Driving of Motor Cycles) Act, 1960, now in force, amends s. 97 by providing that the minimum age prescribable for driving motor cycles whereof the cylinder capacity of the

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engine does not exceed fifty cubic centimetres, being cycles equipped with pedals by means whereof they are capable of being propelled, shall be fifteen. The minimum age for other motor cycles, even of the lightest type, remains at sixteen. No regulations have yet been made but the Minister of Transport is empowered by the new Act to allow boys and girls who have attained the age of fifteen to drive auto-assisted pedal-cycles of the capacity mentioned above. Such cycles will continue to be motor vehicles and require third-party insurance (*Floyd* v. *Bush* [1953] 1 All E.R. 265, as qualified by *Lawrance* v. *Howlett* [1952] 2 All E.R. 74, where essential parts of an engine had been removed). Section 2 of the new Act makes another change that will probably have the effect of reducing motor cycle accidents. On and after 1st July, 1961, a provisional driving licence will not allow its holder to drive a motor cycle whereof the cylinder capacity of the engine exceeds 250 cubic centimetres. At present a provisional licence holder may drive a machine of great power on the first day that he holds his licence. During the debates on the Bill for the Road Traffic Act, 1956, one M.P. aptly altered Lord Acton's famous dictum to accord with modern traffic conditions, saying: "All power corrupts but with some people horse-power corrupts absolutely." The reduction of this kind of corruption will, we think, be welcomed by most people as a material contribution to road safety.

Carriage for "Hire or Reward"

SECTION 2 (4) of the Road and Rail Traffic Act, 1933, provides that the holder of a private carrier's licence (a "C" licence) must not use the authorised vehicle "for the carriage of goods for hire or reward." The meaning of the words "hire or reward" was considered in *Wurzel* v. *Houghton Main Home Coal Delivery Service, Ltd.* [1937] 1 K.B. 380, and *Spittle* v. *Thames Grit and Aggregates, Ltd.* [1938] 4 All E.R. 101, and it is now clear that the prohibition against user for the carriage of goods for "hire or reward" is a general prohibition: *Lloyd* v. *E. Lee, Ltd.* [1951] 2 K.B. 121. While it may not be necessary to show a request for payment or a contract of hire, it seems that in order to establish that a vehicle was used for "hire or reward" there must at least be an intention to accept a payment which is expected and intended to be tendered: *Bonham* v. *Zurich General Accident & Liability Insurance Co., Ltd.* [1945] 1 K.B. 292. This question arose in a novel way in a recent case in the Court of the Transport Tribunal (Appeal 1960 No. W.31). A man obtained a "C" licence in July, 1959, and two months later a shop in Newcastle was broken open and a large quantity of clothing stolen. The goods were loaded into the authorised vehicle, but there was no further evidence as to the user of the vehicle except that the man who had obtained the licence and another had taken part in the robbery. The licensing authority took the view that there had been an indirect hiring and an indirect rewarding and, for this reason, that the man's "C" licence should be taken from him, but this decision was reversed on appeal. The president of the tribunal said that "in the absence of any evidence other than that the vehicle was used by the licensee in the course of a robbery in which he was engaged this does not constitute the use of the vehicle for hire or reward. We think that those words connote the receipt by one person of some benefit from another. Nothing in the facts revealed in this case would suggest that any benefit accrued to [the holder of the 'C' licence] from anyone else."

What is a "Building"?

IN the course of his judgment in *Stevens* v. *Gourley* (1859), 7 C.B. (N.S.) 99, Byles, J., said: "The imperfection of human language renders it not only difficult, but absolutely impossible to define the word 'building' with any approach to accuracy." However, his lordship ventured to suggest that by a "'building' is usually understood a structure of considerable size, and intended to be permanent, or at least to endure for a considerable time." Although it may be impossible to define a "building," from time to time the courts have to decide whether a certain structure is a "building" within the meaning of a particular statutory provision. The Lands Tribunal was confronted with this problem in the recent case of *Clayton (V.O.)* v. *Good, Havercroft & Co., Ltd.* (LVC/1670/1958), where the sole issue was whether the hereditament should be assessed to gross value under s. 22 (1) (*a*) of the Rating and Valuation Act, 1925, as the local valuation court had decided, or whether it should be assessed direct to rateable value under s. 22 (1) (*b*). The hereditament consisted of a wharf of concrete construction and a paved area on which stood, *inter alia*, a cement-mixing plant. The argument turned on whether the wharf and the cement-mixing plant could be described as "buildings" within s. 22 (1) (*a*) of the 1925 Act. The tribunal took the view that the definition must be read into the subsection and not looked at in isolation and, therefore, that the building must be of a similar character to a house, factory or mill and not merely "that which is built." Applying this test, it was held that the cement-mixing plant, but not the wharf, was a "building" within s. 22 (1) (*a*), and as it was necessary for the respondents to establish that both the wharf and the cement-mixing plant were "buildings," the appeal was allowed.

Dr. R. R. Pennington

THE profession's congratulations are due to Mr. R. R. PENNINGTON, who at the early age of 33 is to-day receiving the degree of Doctor of Laws in the University of Birmingham. He is well known to our readers for his valuable contributions in this journal, and upon its publication last year his book on company law joined the select few authoritative works on the subject. Graduating LL.B. with honours at Birmingham in 1946 at the age of only 19, Dr. Pennington was admitted in 1951, being awarded the Robert Innes Prize and the Birmingham Law Society's bronze medal as well as being placed in the second class at The Law Society's honours examination. After practising for some months in Birmingham, Dr. Pennington joined the staff of The Law Society's School of Law where he has been a reader since 1955. We wish Dr. Pennington continued success in his career.

The Late Judge Maxwell Turner

WE regret to record the death of His Honour Judge MAXWELL TURNER on 10th December, 1960, at the age of fifty-three. He had been an additional judge of the Mayor's and City of London Court since 1959. Judge Maxwell Turner was educated at Rugby and Trinity College, Oxford, and was called by the Inner Temple in 1930. He was senior prosecuting counsel to the Crown from 1954 to 1959 when he became first senior prosecuting counsel and, as such, led for the Crown in *R.* v. *Podola*. From 1953 to 1958 he was Recorder of Great Yarmouth and then became Recorder of Hastings. He was joint editor of Archbold's Criminal Pleadings, 30th edition.

THE ADMINISTRATION OF JUSTICE ACT, 1960

MOST statute law, and especially the modern part of it, has been enacted against the background of the common law, and can be thoroughly understood only against that background. Of this elementary proposition the Administration of Justice Act, 1960, is an excellent illustration—amending as it does the law relating to contempt of court (ss. 11–13), habeas corpus (ss. 14 and 15) and certiorari (s. 16), besides making provision for appeals to the House of Lords (ss. 1–10). The final sections (17–20) deal with interpretation, Northern Ireland, minor consequential amendments and repeals, the short title of the Act and the extent to which it applies to Scotland. Appended thereto is the usual crop of Schedules. The following analysis shows the far-reaching importance of the changes in law and procedure brought about by the timely provisions of this Act. Indeed, this and other measures prove that the Law Officers of the Crown and their assistants in the various departments of state are among the most hard-worked Ministers and civil servants engaged in the government of this country.

Appeal from Divisional Court in criminal matters

Hitherto the decision of the Divisional Court of the Queen's Bench in any criminal cause or matter was final, and all the ingenious attempts to avoid the stumbling block of s. 47 of the Judicature Act, 1873—re-enacted by s. 31 of the consolidating statute, the Judicature Act, 1925—failed utterly. It is now provided by s. 1 (1) (*a*) that an appeal from any such decision, including one in habeas corpus proceedings on a criminal application, shall lie to the House of Lords. Moreover, s. 14 (2) provides that there is no right to apply for habeas corpus from one court or judge to another on the same grounds as a previous application, except on fresh evidence. These provisions will recall the battles of *Hastings* of 1958 and 1959.

H was convicted on an indictment containing five counts, and was sentenced "to undergo corrective training for four years"—without any reference to concurrent sentences. On appeal against conviction on the first three counts, the Court of Criminal Appeal quashed the conviction on the first count, adding: "In other respects the appeal fails and there will be no alteration of sentence." On a motion for a writ of habeas corpus on the ground that no legal sentence had been passed on the remaining four counts, the Divisional Court refused the writ, holding that the sentence was one of concurrent terms on each count (*Re Hastings* [1958] 1 W.L.R. 372). From that refusal *H* appealed to the Court of Appeal, which, on a preliminary objection on behalf of the Crown, held that it had no jurisdiction to hear the appeal, since the judgment appealed from was one in a criminal cause or matter (*Ex parte Woodhall* (1888), 20 Q.B.D. 832).

Later in the year a second application was made on *H's* behalf for a writ of habeas corpus, on the same grounds and on the same evidence, but to a differently constituted Divisional Court. It was held that the decision of a Divisional Court of the Queen's Bench Division, when sitting to hear an application for a writ of habeas corpus in a criminal matter, was equivalent to the decision of all the judges of the Division (*Re Hastings* (*No. 2*) [1959] 1 Q.B. 358). The court doubted whether an applicant for a writ of habeas corpus in a criminal matter was entitled—during term time, as distinct from vacation—to go from judge to judge of the Queen's Bench Division. On this occasion Lord Parker, C.J., echoed the regret expressed by Lord Goddard, C.J.—on the last effective day of his tenure of office and in the course of delivering the reserved judgment in *Smith* v. *Wyles* [1958] 3 W.L.R. 528—that decisions of the Divisional Court on criminal matters could not be appealed from. Nothing daunted, *H* made a similar application on identical grounds to a Divisional Court of the Chancery Division, which held that the applicant had no right to go from division to division or judge to judge of the High Court applying for a writ of habeas corpus. When once the proper court according to the rules, a Divisional Court of the Queen's Bench Division—whose order was the order of the one High Court of Justice—had decided the application, the matter was ended (*Re Hastings* (*No.* 3) [1959] Ch. 368). Thanks, however, to the new Act, all this and much else is past history.

Appeal to Lords from Court of Criminal Appeal

Under s. 1 (1) (*b*) an appeal lies to the House of Lords from any decision of the Court of Criminal Appeal on an appeal to that court. But such an appeal or an appeal from a Divisional Court—other than under s. 15—will lie only if (1) the court below certifies that a point of law of general public importance is involved in the decision, and (2) leave to appeal is given by that court or by the House of Lords on the ground that the point is one which ought to be considered by the House. The appeal from the Court of Criminal Appeal takes the place of the appeal on the fiat of the Attorney-General, under s. 1 (6) of the Criminal Appeal Act, 1907, and s. 16 of the Judicature Act, 1925.

However, according to s. 1 (4), the House of Lords may exercise any powers of the court below or may remit the case to that court. Sections 2 to 9 contain incidental and procedural provisions relating to appeals under s. 1—including bail, restitution, legal aid and costs—while s. 10 extends to the Courts-Martial Appeal Court the provisions of the previous sections relating to appeals from the Court of Criminal Appeal—subject to the modifications set out in Sched. I.

Again, whether the criminal application for a writ of habeas corpus is made in the first instance to a single judge or to the Divisional Court of the Queen's Bench Division (in accordance with rules of court), an order for the release of the person restrained may be refused only by that court (s. 14 (1))—thus attracting the right of appeal provided by s. 1—whereas no such application is in any case to be made to the Lord Chancellor (s. 14 (2)). Finally, s. 15 gives an absolute right of appeal in habeas corpus proceedings against an order for release as well as against the refusal of an order, except where the order is made by a single judge on a criminal application. Thus in a criminal case either side will be able to appeal under s. 1 from the decision of a Divisional Court, while on a civil application either side will be able to appeal from a decision of the High Court or the Court of Appeal; but in a civil case an applicant who has been released will not be liable to be again detained if the ultimate decision goes against him. An application for habeas corpus made in respect of a person who is subject to detention under Pt. V of the Mental Health Act, 1959 (otherwise than by virtue of para. (*e*) or (*f*) of s. 73 (2) of that Act), shall be deemed to constitute a criminal cause or matter (s. 14 (3)).

Contempt of court

With regard to contempt, s. 11 provides that a person is not to be guilty of contempt of court on the ground that he has published or distributed any matter calculated to interfere with the course of justice in proceedings which are pending or imminent if he can show that, having taken all reasonable care, he did not know and had no reason to suspect that proceedings were pending or imminent, where he is a publisher; or that the publication contained such matter, if he is merely a distributor. This change brings to mind no less than four forensic contests, two north of the Border dealing with imminent proceedings, and the other two dealing with innocent dissemination.

Briefly, a soldier was detained here in connection with two murders committed in Scotland. On the day of his return, but before his being charged or arrested, there appeared in a Scottish newspaper his photograph and an article containing material suggesting a motive for the murders. The editor and publishers were fined for contempt of court (*Stirling* v. *Associated Newspapers* [1960] S.L.T. 5). Shortly afterwards a well-known footballer was arrested in Aberdeen and charged with an offence. On the following day his photograph appeared in a newspaper there, together with details of his arrest. Since a question of identity might have arisen, this was adjudged contempt (*H.M. Advocate* v. *Scottish Daily Record* (unreported)).

In *R.* v. *Odham's Press, Ltd.; ex parte A.-G.* [1956] 3 W.L.R. 796, the facts were that, *M* having been arrested and charged with an offence, a newspaper of wide circulation published an article attacking him—before his committal for trial—on activities similar to those which were the subject-matter of the charge. Two things were not disputed: (1) that the article in question tended to prejudice the fair trial of the proceedings then pending; and (2) that neither the proprietors of the newspaper nor its editor nor the reporter responsible for the article knew of those criminal proceedings. On a motion for writs of attachment against them, it was held that each one of them was guilty of criminal contempt of court, since the test of guilt was whether the matter complained of was calculated to interfere with the course of justice, not whether that result was intended, and lack of knowledge that criminal proceedings against *M* had been begun was not material except as to penalty. In *R.* v. *Griffiths; ex parte A.-G.* [1957] 2 W.L.R. 1064, the facts were different, in that there the lack of knowledge was in respect of the contents of a foreign magazine sold in this country. Thus while a murder trial was going on in London, a magazine was put on sale in England containing material the publication of which amounted to a contempt of court. The magazine was owned by an American company, compiled and edited in New York, and printed in Amsterdam. *G* was a reporter representing the magazine in this country, but was not responsible for the objectionable material. Two English companies distributed the magazine in this country, but were ignorant of its contents before they distributed it. On a motion for attachment against *G*, the two distributing companies and the circulation director of one of them for contempt of court, it was held, *inter alia*, that innocent dissemination was no defence to those who in the way of their trade were responsible for publishing the offending matter.

Now negligence is an essential element of the offence of contempt.

Publication about court proceedings

Section 12 provides that the publication of information relating to proceedings before any court sitting in private shall not of itself be contempt, except in cases of wardship, adoption, guardianship, custody, maintenance or upbringing of an infant or access; where proceedings are brought under Pt. VIII of the Mental Health Act, 1959, or under any other provision of that Act authorising an application or reference to be made to the Mental Health Review Tribunal or a county court; where the court sits in private for reasons of national security; where the information relates to a secret process, discovery or invention; or where the court (having power to do so) expressly prohibits the publication of information. Nevertheless, the publication of the text or a summary of the order made by a court sitting in private shall not of itself be contempt, except where the court (having power to do so) expressly prohibits it. All of which merely confirms the practice which a recent bunch of wardship cases has brought into prominence.

Henceforth an appeal lies in all cases of contempt—including by a disappointed applicant for committal or attachment, but excepting where the contempt consists in not paying a sum of money—from an order or decision of an inferior court (other than a county court) to a Divisional Court; of a county court, or of the Chancery Court of a County Palatine, or of a single judge of the High Court, or of any court having the powers of the High Court—to the Court of Appeal; of a Divisional Court, or the Court of Appeal, or the Court of Criminal Appeal, or the Courts-Martial Appeal Court—to the House of Lords.

Certiorari

One word about certiorari: s. 16 provides that where, on an application for an order of certiorari, the High Court determines that the court below had not the power to pass the sentence set out on the record, it may, instead of quashing the conviction, substitute any sentence which the magistrates' court had power to impose. Previously the Divisional Court had no power to amend the record, and no alternative but to quash the conviction whenever it was defective—to the prejudice of justice.

JOSEPH YAHUDA.

OFFICIAL RECEIVER APPOINTMENTS

The Board of Trade announce the following appointments:

Mr. ROYSTON BERNARD HOWARD has been appointed an Assistant Official Receiver in the Bankruptcy (High Court) Department with effect from 1st December, 1960.

Mr. WILLIAM ARMSTRONG has been appointed Official Receiver for the Bankruptcy District of the County Courts of Newcastle upon Tyne, Durham, Sunderland, Stockton-on-Tees, Darlington and Middlesbrough with effect from 1st December,1960.

Mr. FREDERICK LEONARD SAGE has been appointed Assistant Official Receiver for the Bankruptcy District of the County Courts of Cambridge, Peterborough and King's Lynn; the Bankruptcy District of the County Courts of Northampton, Bedford and Luton; the Bankruptcy District of the County Courts of Ipswich, Bury. St. Edmunds and Colchester, and the Bankruptcy District of the County Courts of Norwich and Great Yarmouth with effect from 12th December, 1960.

Obituary

Mr. ALFRED ERNEST GREAVES, solicitor, of Wakefield, died on 2nd December, aged 87. He was admitted in 1897.

Mr. ALAN JOHN DEVERELL LANGFORD, solicitor, of Luton, Harpenden and Dunstable, died on 18th November, aged 49. He was admitted in 1937.

COMMUNITY OF PROPERTY ON MARRIAGE

We are so confident that our system of law is the best that we are apt to forget that it is very much of a minority system and that the remainder of the civilised world is content to operate under very different rules.

Particularly in the effect of marriage on property rights are we at variance. All systems started from the idea that husband and wife are one in the eyes of the law (the one of course being the husband) but our method of giving effect to this has been different from everyone else's. Strongly influenced by Canon law, we used to give all the wife's movables to her husband absolutely together with the effective control of her realty, though it stayed nominally in her name. Over the years, aided by Equity, she gradually acquired the right to have her separate property until now we have reached the final stage when marriage no longer has any effect on the property rights of either spouse. On the Continent, the Frankish or Barbarian idea of community of property took firm root even in areas that had received the Roman law and acknowledged the Canon law. It is a common fallacy to consider community of property as a Roman law concept. Under that law the wife and her possessions passed unreservedly to her husband as if she were his daughter or slave. Later modifications introduced something akin to the French *régime dotal* but community of property is thought to have originated in Saxony and spread with the Barbarian invasions. It was incorporated by Napoleon in his *code civil* but that Code really owes much more to the old *coutume de Paris* than to Roman law in spite of its general reputation and air of Latinity.

Effect of community

The effect of community is that all the property of both spouses forms a joint, unseverable pool and on the death of the first to die that pool is divisible equally between the survivor and the estate of the deceased, irrespective of the proportions of their contributions to the pool. There is a hint of this idea in our pre-1882 tenancy by entireties. During the subsistence of the community, the husband has the sole right to administer it, the wife being granted varying safeguards against its dissipation and being subject to varying restrictions on her contractual capacity except with the assistance of her husband.

All systems, however, permit of ante-nuptial contracts to negate or vary the terms of community of property. Such contracts can limit the operation of community to certain specified types of property or negate it altogether, leaving the spouses with complete separation of property as in England. The most popular intermediate stage is the community of profit and loss or *communauté réduite aux acquêts* which limits the community to property acquired during the subsistence of the marriage, leaving property owned at the date of the marriage and certain other property as the spouses' separate estates.

Corollary to community

The corollary to community is the prohibition of gifts between spouses. Where there is complete community, gifts are impossible as neither has anything to give nor the capacity to receive, but this prohibition is usually applicable even when the spouses have elected to have separation of property on the ground that such prohibition makes for happier marriages and, more prosaically, is a protection for creditors.

To our eyes, community seems a cumbersome procedure and indeed the countries that apply it are constantly varying its terms (generally in the wife's favour) but, basically, it is still full of life and is continued even when new codes are adopted. Within the Commonwealth it crops up in several places, i.e., Quebec, Union of South Africa and Southern Rhodesia (but not Northern), though in Southern Rhodesia since 1929 the system has been put into reverse in that community only applies if an ante-nuptial contract provides for it, the automatic system being separation of property. Outside the Commonwealth the system applies in all countries that have adopted the French *code civil* or Roman-Dutch law and in certain unexpected places like the States of California and Louisiana in the U.S.A.

Considerations when a spouse is domiciled abroad

From the practitioner's point of view, there are several considerations that should be kept in mind when a party to a marriage is domiciled abroad. It is now settled that the consequences of marriage are governed by the law of the domicile of the husband at the time of the marriage (*Re Egerton's Will Trusts; Lloyds Bank, Ltd.* v. *Egerton* [1956] Ch. 593) and, once that is settled, no subsequent change of domicile can affect the position (*De Nicols* v. *Curlier* [1900] A.C. 21). So when an English girl is about to marry a foreigner, the position should be carefully considered. If she has not, and is not likely to have, any property of her own, she stands to gain from the existence of community. But if she is an heiress, then it is desirable to have separation of property; otherwise in the final division of the community she may find she has been contributing her 1s. to her husband's ½d. and only getting 6½d. back. Further, in opting for separation of property, it is usual also to negate the husband's ancillary rights over his wife and to restore to her full contractual capacity. Contracts for this purpose must be ante-nuptial. Once the marriage has been celebrated the regime is fixed and there is then usually nothing that can be done about it. Ante-nuptial contracts must always be executed notarially or before a consul of the country concerned and then registered in that country.

If the girl before her marriage was the owner of realty here, then after her marriage the courts will recognise community of property as applying even to that realty (*Chiwell* v. *Carlyon* (1897, S. Afr.)), though there is a paucity of cases on this point and what would happen if the wife purported to convey the land by herself to a third party is not clear. There is however probably no need for a purchaser to requisition on this point. In any case s. 17 of the Married Women's Property Act, 1882, gives the court power to make an order on any question between husband and wife as to the title to or possession of property even though the spouses are domiciled abroad and subject to community of property (*Re Bettinson's Question* [1956] Ch. 67).

It must also be borne in mind that divorce terminates community just as effectively as death.

On an intestacy the surviving spouse generally has to rest content with her share of the community property and she gets no interest in the deceased's estate, though some countries do now allow her to claim a child's share.

Estate duty position

From the estate duty angle, the Estate Duty Office are fully conversant with the position and duty will only be exigible on one-half of the community property once the existence of that community has been established. The surviving spouse must, of course, bring in for duty purposes all property in her name which is within the jurisdiction. It frequently happens, however, with foreigners, that only one spouse has property here so that duty is only payable on one-half of his estate here.

The general trend in all countries has been to increase the wife's say in the administration of her property but whether the wife's advancement from being her husband's slave to being his partner has increased the sum of marital bliss is anyone's guess.

F. C. ANDERSON.

County Court Letter

THE LEGAL OUTLAW

WHAT a lawless lot we solicitors are, to be sure. Here we are, going about our lawful occasions warning people about the dangers of defying the law, and all the time we are apparently doing just that and getting away with it daily. Daily, at any rate, when the county court is sitting.

It all arises out of s. 89 of the County Courts Act, 1959. Since you will all unquestionably remember its provisions in detail there is no need to remind you that under para. (*c*) a solicitor, retained as an advocate by another solicitor acting generally in the proceedings, has no right of audience before the county court. Unless, of course, he is permanently and exclusively in the employment of another solicitor acting in the case, when he falls within the first proviso to the section, and we hope he does not hurt himself doing so.

Under para. (*d*) of the section it seems that the court can hear anybody it likes from the man in the moon to an infant in arms—except the solicitor advocate. He is the one pariah; the only *persona non grata*, when he appears in a case other than his very own. The most downy-faced counsel may hack his way through the easiest case, destroying all hope of success in his path, but the solicitor advocate remains gagged. Officially, at any rate.

That is really the point. It would be almost impossible to go to any county court in the country and not find at least one solicitor who is in fact acting as agent for another, probably in a distant town. The court may not know it—indeed, it may not wish to know it—but there it is, apparently a flagrant breach of the provision of s. 89 (*c*).

Practical considerations

By far the safest place to take proceedings in either contract or tort is in the court having jurisdiction over the locality where the defendant lives. Very often, particularly in these days of postal trading and door-to-door credit sales, the plaintiff lives many miles away, and so of course does his solicitor. If he is going to have to brief counsel to appear for him in every twopenny-halfpenny case, it is going to cost a wholly unwarrantable amount. For that reason, if none other, the subsection, which was obviously designed to benefit junior counsel, fails in its object. It is either disregarded, or some other solicitor is appointed to act generally in the proceedings. A notice of change will work the necessary magic; perhaps even the physical transfer of the papers. It is a question of fact which the court has to decide in each case. Junior counsel need help and protection, no doubt, but one wonders very much whether there has ever been a brief delivered by reason only of s. 89.

Curiously enough, that the section is not complied with strictly in practice appears to be recognised in C.C.R., Ord. 25, r. 66. That, it will be well remembered, is the rule that deals with costs of judgment summonses. Sub-rule (1) (*b*) provides that costs can be allowed by the court when the summons is on a judgment or order of another county court or a court other than a county court. Though it does not say so, this must surely be to enable a solicitor acting as agent for another one in a different part of the country to be remunerated. The other solicitor's name may well be on record, but the agent, apparently, is acting generally in the proceedings when it comes to the hearing of a judgment summons. Was it Humpty-Dumpty who said that when he said something it meant what he meant it to mean? If so, he might have enjoyed himself with that phrase.

Crime without punishment

There is no penalty attached to appearing as an agent in the county court. You just cannot address the court. You are, in fact, in the same position as the solicitor who was told by the judge that he could not hear him, and it was not until he had practically shouted himself hoarse that he realised that it was not the judge's hearing-aid that was missing, but his own waistcoat.

But perhaps, after all, there is a simple solution to the apparent puzzle. *R.* v. *Judge of County Court of Oxfordshire* [1894] 2 Q.B. 440, points, rather mistily, to it. In that case, a qualified managing clerk successfully conducted a defence. Later, the plaintiff sought a new trial, and the managing clerk claimed the right to address the court in reply. The judge refused to allow him to do so as of right, but offered to give him leave, which he refused. The Divisional Court upheld the judge.

It would not take as great a genius as Humpty-Dumpty to notice that the wording of s. 72 of the County Courts Act, 1888, differs considerably from that of s. 89 of the 1959 Act, but two points appear from this case. The first is that nobody seems to have questioned the clerk's right to conduct the case in the first place but only his right to address the court. This would let in an agent in very many simple cases. The second point is that no one seems to have doubted that the judge could have allowed the clerk to address him if he had wished to do so. It is problematical whether this can be so to-day in view of the wording of s. 89 (*c*) and (*d*), which is more explicit than that of the old Act.

So there it is. The whole thing seems to turn on the construction of the word "address." Perhaps, after all, we are not quite such a lawless lot as we might seem to be.

J. K. H.

NEW PERSPECTIVES FOR YOUTH—I

AFTER a prolonged contemplation of the pains and penalties of juveniles (see p. 1022, *ante*) it should be a cheerful prospect to turn to the Report of the Albemarle Committee on the youth service. Taken in its entirety this is indeed a cheerful report, because it is charged with hope for the future, but many of its findings on the present situation make sad reading. The committee was appointed at a most crucial time in the history of the youth service: in November, 1958, the service was in a critical condition, and the task was felt to be one of quite unusual urgency. There is no reason to believe that there has been any improvement in the last two years. Although there are devoted workers all over the country and in every part of the service, the spirit of those workers is at a low ebb; time after time the committee was told that the youth service was "dying on its feet" or "out on a limb." By 1958 the "bulge" was passing from the school population to that of adolescence, yet at this time, when the youth service was needed more than ever before, its resources seemed to be less than they had ever been. In a modern society with a rising standard of living the youth service is of special importance: boys and girls leaving school have infinitely greater freedom and much more money to spend than they did in the past, and this accentuates the sudden change from learning to earning. At fifteen, the boy or girl leaving school is suddenly, and with the very minimum of preparation, hurled into the modern rat race, and expected to be responsible immediately for all his or her own actions and their results. This is where the youth service takes the strain, or would do so if it were sufficiently healthy.

Creation of sponsored youth service

The youth service came into being in 1939 when the Board of Education issued a circular in which the Board undertook "a direct responsibility for youth welfare." The intention was to bring together the State, the local education authority and voluntary organisations into a working partnership. During the war the youth service received much encouragement and attracted great interest. The McNair Report in 1944 encouraged the public to think of youth leadership as a profession, and the Youth Advisory Council produced two reports in 1943 and 1945 which were full of hope for the future of the service. The Education Act of 1944 made it a duty on authorities to do what many were already doing out of good will, and in addition promised the county colleges which should have been, and will be in the future one hopes, a mighty ally to the youth service. In 1945 the position was still hopeful, but by 1949 the wind had begun to blow cold. As economic crisis followed economic crisis all the money available was diverted to the new schools and to technical education, and there was little left for the youth service. The county colleges seemed far off. Universities which had started full-time courses for the training of youth leaders closed their departments down one by one and to-day only three survive. Public interest flagged, and there is no doubt that the service has suffered in morale and public esteem.

Machinery of the youth service

The machinery of the service is complex. There is no national council or committee through which the Ministry can discuss policy for the youth service with the local authorities and voluntary organisations. Direct help to the service from the Ministry takes the form of grants under the Social and Physical Training Grant Regulations, 1939, and indirect help is given to voluntary organisations through grants under the Physical Training and Recreation Act, 1937. Capital grants are also made for local projects which are meant primarily to benefit adults, such as playing fields, swimming baths, community centres and village halls. But the main responsibility for making the service work lies with the local education authority. This responsibility is usually undertaken by a youth committee, but the way in which the local authorities work is varied. The cost of the youth service is minute in comparison with its importance. Total direct expenditure on the youth service by the Ministry of Education in the year 1957–58 was £317,771. This represents only a small part of expenditure on all forms of education, which amounted to £350,400,000 in that year. In the same year total expenditure on the service by local education authorities was about £2½m.; thus the total direct expenditure by both authorities concerned was a little over £2¾m. Of every £ they spent on education about 1d. went on the youth service. Over the past twelve years in terms of real money direct expenditure by the Ministry on the youth service has fallen by about a quarter, but expenditure by local education authorities has increased by almost one-half.

Present state of the service

At its inception the service was seen as a character-building organisation; although the training was regarded as indirect, its ultimate aim was the social and physical education of youth. It is seen in this report as something much more challenging than a rescue service and its units as much more than "streets with a roof." Its purpose was to help young people to make the best of themselves and to act responsibly. How far has it succeeded in these initial aims? True, in the difficult times of the past few years little more than a holding operation has been carried out and the service has not extended in anything like the way expected at the outset. Although local authorities as a whole have increased their expenditure on the service, provision has been made for the needs of not more than one in three of young people between fifteen and twenty-one. The main weaknesses of the service to-day arise from the prolonged financial stringency which it has suffered, leading to a lack of drive on all sides. There has also been a conspicuous lack of interest on the part of the Ministry of Education. During the years 1948 to 1958 the Minister did not issue a single circular devoted solely to the youth service, and of the ones which referred to the service incidentally many imposed restrictions without offering assistance. It is fair to say that there would be little point in the Minister showing interest in a service when he knew that insufficient funds were available to carry out its purpose. Against this discouraging background it is not surprising to find that local authorities vary greatly in the amount of effort and money they expend on the service. Some important authorities have no youth committee whatsoever. Some authorities spend most of their allocation for the youth service on clubs and centres of their own, while others make comparatively generous grants to voluntary bodies who then provide the services themselves. The committee found a general unwillingness to try new ideas, or to adopt a variety of methods in the service. Lack of finance has caused a general dinginess of premises and poor equipment, and a serious shortage of leaders within the

service. It has become increasingly difficult to fill full-time posts with satisfactory leaders, which is not to be wondered at when the rewards are so small and the encouragement so slight. The end result of all this neglect is the conspicuous failure of the service to reach the larger proportion of young people.

Youth's changing scene

Before making recommendations about the future working of the youth service the committee first examined the rapidly changing circumstances of youth to-day. There are certain factors, peculiar to our times, which must be assessed and understood before the future of the service can be planned. One of these factors, well known to everyone, is the notorious "bulge." For every five young people between the ages of fifteen and twenty to-day there will be six in 1964. Another change which must be taken into consideration is the gradual ending of National Service. During the past few years roughly 200,000 young men between the ages of eighteen and twenty have been kept out of civilian life while doing their National Service. These extra numbers will now come in to swell the band who need the help of the youth service, and the service will be expected to supply in some measure the challenge and adventure which they would otherwise have found in the forces. With the bulge and the men diverted from National Service, there will be altogether about one million more young people in 1964 to be catered for than in 1958.

The adolescent of to-day is physically much better equipped than in previous generations, and sexual maturity comes much sooner. The average age at which puberty occurs seems to be getting steadily earlier: in the U.S.A., for example, the average age of puberty has been decreasing at the rate of between one-third and one-half a year for each decade during this century. This has led to earlier marriage (or at any rate this is one of the factors leading to earlier marriage), and in the case of girls it is of particular importance because of the shortening of the period between school and marriage. This leaves less time for the girl to acquire social maturity and technical competence at her job as homemaker. Girls need further education after leaving school as much as boys, but in fact they get considerably less, and this defect could be made up to some extent by the youth service.

The report examines the position as regards the increase in delinquency from rather a different point of view from that taken by the Ingleby Committee. The increase in convictions for drink offences is particularly stressed, and it is noted that the incidence of suicide and attempted suicide has more than doubled during the ten-year period preceding 1956 in young people aged seventeen to twenty. An interesting point mentioned by the report is that the raising of the school-leaving age to fifteen has altered the incidence of the highest rate of crime. The rate was greatest among the thirteen-year-olds before the raising of the school-leaving age, but immediately afterwards the greatest rate of crime was among the fourteen-year-olds and has remained so ever since. This suggests that the last year at school is one of greater stress than might have been imagined. The committee cannot point to any single cause of this new climate of crime and delinquency, but it is suggested that it may have something to do with the fact that society does not know how to ask the best of the young; it is not much more concerned with them than to ask them to earn and consume, and man's deepest needs cannot be satisfied by a mechanical participation in an economic process. But the picture of society is not, as some would have us believe, divided into black and white, a delinquent generation on the one hand and a law-abiding older generation on the other: the violence and crime of juveniles has its corollary in the quiet rejection of social responsibilities, the neutral commitment to things as they are, and the general apathy and indifference so prevalent among the older generation. It is a large part of the job of the youth service to do something about this state of affairs. Although it can do little to deal with causes of delinquency which were born long before teenage, it can or should do something to counteract what the report calls the "dynamic of wickedness." For every juvenile delinquent there are a large number of young people who are affected by the atmosphere of crime; there is a gulf between the young generally and the law-abiding older sections of the community, the young are unsettled by the success of the lawless in society, and crimes of violence (particularly if undiscovered) terrorise the other young. The picture is further complicated by the retreat from responsibility on the part of the general population for fear of reprisals in a society prone to violence. There is, in fact, a general moral withdrawal, which makes it much more difficult for the youth service to succeed. If that service is to be socially unsupported and spiritually isolated, it must inevitably fail.

The young in an affluent society

One of the greatest changes that must be taken into consideration is the overall improvement in the material background of youth. Teenagers of the present generation have become accustomed to new and better physical standards and this must be recognised by the youth service. Many now live in houses of considerable comfort and there is a sense of social security unknown to past generations, but there is a darker side to the picture which must also be taken into account. Although many of the slums have been cleared away, it is still estimated that about one-third of the national housing stock is over seventy-five years old, and these houses are quite inadequate by modern standards, with the absence of bathrooms and many families sharing a water-closet. Families living in such houses are not encouraged or inclined to bring their friends into the home, and by tradition their meeting places have been street corners or the local cafés and, for some, the youth clubs. The picture in the new towns and the new housing estates is not all unadulterated bliss: good as the new houses may be, the estates themselves tend to be a mere agglomeration of such houses, with the occasional pub or church, but no place suited to the needs of the young meeting together. One boy described the estate on which he lived as "a graveyard with lights." Teenagers in these new towns and housing estates are cut off from the traditional forms of face-to-face social education in the long-established neighbourhoods. In areas such as these, where boredom reigns, the young make for the nearest established town or the nearest main road, where they race up and down on their motor bikes.

The strides being made in education present their own problem. Although the new system of secondary education is still not fully developed, there has recently been a much keener sense of its potential. In addition to those who go on to secondary schools, there is an increasing demand for extended education for those who have to leave school at fifteen. A five-year programme, beginning this year and costing £300 million, will provide an enormous advance in the field of secondary school education. The secondary schools are now feeling the problems of the bulge, so that many classes are overlarge and there is a scarcity of specialist teachers, but in schools of all kinds there is a growing concern

for social education: clubs and societies, foreign travel and social services are increasingly regarded as a normal part of school life in which the pupils are encouraged to undertake a fuller responsibility. The passage from school to work has been eased over the last ten years by the growing strength of the youth employment service, and the expansion of technical education is indeed dramatic. The introduction of day-release courses has meant that more young people have more evening leisure than they had, as they no longer need to attend technical and other schools in the evenings. But it must be remembered that these young people who benefit from the more advanced forms of education are still very much in the minority, and the remainder have only an impoverished youth service to turn to.

(To be continued) MARGARET PUXON.

PRIVATE STREET WORKS LEGISLATION

AT the time when the Bill hat is now the Highways Act, 1959, was under consideration, it was said that this measure would be followed by a Bill drafted to reform highway legislation generally. No specific mention of such a Bill was made in the Queen's Speech on 1st November, but, in anticipation of new proposals being drafted in due course, it was considered desirable to examine the reforms that may be suggested in that important branch of our law of highways, that is, the provisions of Pt. IX of the Act of 1959, dealing with the making up of private streets at the expense of the frontagers. As is well known by now, Pt. IX includes three "codes," that of 1892, that of 1875, and the "advance payments code," together with miscellaneous sections of general application (ss. 200 to 213).

Developer to make up streets on building estates

Whatever else may be considered fit for inclusion in the reforming Bill, it is suggested that the highest priority should be given to a clause requiring the making up of any new street on a building estate to the satisfaction of the local authority and at the expense of the developer, before any houses or other buildings fronting or abutting on such street are occupied. At present many local authorities attempt to achieve this object by the following means*:—

(*a*) By persuading the developer to enter into an agreement under s. 40 of the 1959 Act (formerly s. 146 of the Public Health Act, 1875), using as the "bait" the fact that such an agreement excludes the operation of the complicated provisions of the "advance payments code." There is, however, no power to compel a developer to enter into such an agreement, and not all local authorities appreciate the value of the procedure. Moreover, failure on the part of the developer to comply with the terms of the agreement merely gives rise to a right of action for damages on the part of the local authority, which may be valueless if the agreement is not reinforced by a bond with a bank, or insurance company.

(*b*) By imposing conditions in the relevant planning permission, requiring the road to be made up to a standard which is satisfactory to the local planning authority. Apart from the inherent difficulties of enforcing such conditions, planning authorities often feel themselves obliged to accept standards lower than those that would be acceptable to (themselves or other authorities acting as) highway authorities; after all, conditions in planning permissions are supposed to be imposed on planning considerations and planning is not to be used as a "universal longstop" when other statutory powers fail or prove defective (Ministry of Town and Country Planning Circular No. 69).

* New Streets byelaws under s. 157 of the 1959 Act are useless in this respect, as they can only control the level, width and means of construction of a new street.

Such a new statutory provision as that suggested would, therefore, be most useful as a means of preventing the list of private streets—still formidable in some areas (particularly it is thought, in some south coast seaside resorts which were extensively developed in the years of building speculation between the two wars)—from growing any longer. The advance payments code would also then become redundant.

Demolition of Pt. IX of 1959 Act

In addition to this first suggestion (which would be needed in any event), it is submitted that the time has come when the whole fabric of Pt. IX of the 1959 Act could be demolished. Comparatively few private streets have been constructed since the late war, and many houses in streets that are still "unadopted" have been lived in for many years. The strongest argument against the abolition of private street works legislation, and the consequent putting on the general rates of the full cost of making up such streets, has always been that residents in these private streets have no cause to complain at being asked to pay road charges, as they were aware (or should have been aware, if they had taken professional advice) of their potential liability when they first purchased their houses, and this liability was presumably reflected in the purchase prices. In modern circumstances, it is not quite so clear that this argument is sound, because:

(i) some of these purchasers will have acquired their houses in the immediate post-war years, when housing shortage sent up prices;

(ii) present-day residents who had purchased their houses twenty or more years ago had then no idea that their liability to road charges would be anything like as heavy as it will often eventually turn out to be at the present time;

(iii) residents who have been occupying their houses in unmade streets for any length of time will have suffered very considerable inconvenience, whilst contributing during that time to the rates of the district. The assessments of dwelling-houses in unmade streets are admittedly customarily proportionately less than those of dwelling-houses in adopted streets, but this in itself seems a hardship to these residents—not only do they have to bear their share of the private street works expenses, but then when the works have been completed, they have to pay more in rates.

Ratepayers should pay

It is suggested therefore that the time has certainly come when Parliament could well expect all local authorities to make up any existing unmade streets at the expense of the ratepayers in general, and not merely at the expense of the frontagers. (Power already exists to do this, to a limited extent, in the case of flank or rear frontages only, in s. 210 (2) of the 1959 Act.) If such a course were taken, it might be thought advisable to modify somewhat the effect of s. 203

of the 1959 Act, which empowers the majority of frontagers in a private street to require the adoption of the street, but it is clear that some form of duty would have to be imposed on the authority to secure the making up of those unmade streets in respect of which a public need was shown to exist.

If this reform is considered by the Legislature to be too sweeping and revolutionary, it is suggested that, at the very least, the code of 1875 should be abolished, all authorities being required to operate under the code of 1892. The latter code is much the more flexible, allowing for appeals to be decided by the magistrates, and for the local authority to take "degree of benefit" into consideration; moreover, comparatively few authorities now use the 1875 code, and one uniform set of provisions could well be applied to the whole country. Local Act provisions could also be abolished, for the same reasons.

Other possible reforms

Other possible reforms that we have heard voiced include the following:—

(*a*) Objections under the 1892 Act (when not met by the local authority) should be determined by the local magistrates rather than by the Minister as at present. It is admitted that at times difficult questions of law may be raised in these proceedings, but this does not seem to be any reason to prefer an administrative tribunal, presided over by an inspector who may not be a lawyer, to a court of law, with a right of appeal to the superior courts. Moreover, many of these proceedings turn on questions of fact and measurement, etc., eminently suitable for determination by lay magistrates. By and large members of the public, many of whom conduct their own cases in this kind of proceedings, have a greater respect for the local magistrates than they have for a Ministry inspector.

(*b*) The discretion vested in the local authority by s. 176 (2) of the 1959 Act to have regard to the "greater or less degree of benefit to be derived by any premises from the street works," which cannot at present be called into question in the courts (but can on an appeal to the Minister: *Bridgwater Corporation* v. *Stone* (1908), 99 L.T. 806; *R.* v. *Minister of Health; ex parte Aldridge* [1925] 2 K.B. 363), should, it might be suggested, be capable of being a ground of objection under s. 177 of the 1959 Act. This might well be a worthwhile change in law, but it is doubtful whether the present rules, which are well established and well known in practice, are the cause of any real hardship.

No tinkers

Other alterations could at best, it is thought, but amount to a tinkering with reasonably well established provisions. If the power to make up private streets at the expense of the frontagers is to remain, it is suggested that the code of 1892 achieves this purpose reasonably well and with little, if any, injustice. Any elaborate changes in the procedure designed to achieve that same end would have the disadvantage of being unfamiliar, and therefore (at least at first) uncertain in operation. *Nolumus leges Angliae mutare*, for the sake of change, even in these days when a bulky statute book is the regular result of a year of Parliamentary time.

The root and crop abolition of Pt. IX would have certain compensating advantages to local authorities, for the present procedure involves a great deal of administrative work for the surveying, legal and financial staffs of the authorities, and it is doubtful whether the cost of this work is all covered by the 5 per cent. that may be added to the recoverable expenses under s. 174 (2) (*b*) of the 1959 Act.

J. F. GARNER.

Landlord and Tenant Notebook

IMPORTANCE OF CLEANING OUT A DITCH

ON 18th March last the "Notebook" discussed the complaint made, in an agricultural paper, of the way in which landowners recovered possession of farms by establishing so-called "technical" breaches of tenancy agreements. *Price* v. *Romilly* [1960] 1 W.L.R. 1360; p. 1060, *post*, has illustrated what the writer had in mind, though whether the breach relied on was "technical" and the complaint justified is another matter. The tenancy with which the case was concerned was a Lady Day one. On 21st April, 1959, the landlord served the tenant with a notice, requesting him to remedy some seven breaches of the agreement, the first item calling upon him to clean out a specified ditch, by 31st October.

The background was, of course, the Agricultural Holdings Act, 1948, s. 24 (2) (*d*), entitling a landlord to serve an unchallengeable notice to quit if the tenant fails, within a reasonable time, to remedy any breach capable of being remedied of any term which is not inconsistent with the responsibilities to farm in accordance with the rules of good husbandry; the reason to be stated in the notice.

On 16th December, 1959, the tenant received such a notice to quit, to expire 25th March, 1961. It covered more than one, if not all, of the alleged breaches, but when the tenant exercised his remedy of arbitration (s. 26 and the Agricultural Land Tribunals and Notices to Quit Order, 1959, art. 6) the arbitrator found that he had failed to comply with a part of the 21st April notice requiring him to remedy the breach of the terms of his tenancy not inconsistent with his responsibilities to farm, etc., by cleaning out the ditch defined in the first item. He did not deal with complaints about a fence and one about gates; found that the notice had specified too short a period for remedying one breach; that one had been remedied and that another had been partly remedied but the time given was too short; and that others were not breaches of the terms. The tenant moved to set aside the award.

Substantial compliance

The main ground of the motion was that the notice had been substantially complied with. But this, Diplock, J., considered, would not do. "Failed to comply with a notice . . . requiring him . . . to remedy": while the *de minimis* rule would apply, there was no justification for reading "failed to comply" as "failed to comply substantially."

Merits are beyond my scope, but it is fitting to observe that the security of tenure provisions of the Act cut down the landlord's common-law rights, and this calls for strict interpretation of the conditions (*David* v. *De Silva* [1934] A.C. 106).

It would be beside the point to say that some of these provisions cut both ways; that s. 23, providing for a minimum twelve months' notice, applies to notices given by as well as notices to tenants (*Flather* v. *Hood* (1928), 44 T.L.R. 698); for we are dealing with a right to terminate which arises only when two conditions have been satisfied, notice of a breach and failure to remedy that breach. For the same reason, no support could be found for a tenant's case by referring to the Landlord and Tenant Act, 1954, Pt. II, ground for opposition to application for a new tenancy in s. 30 (1) (*a*): disrepair due to tenant's failure to comply with obligations to repair (it is only in the case of other obligations that breaches have to be shown to be substantial: para. (*c*)).

Reasonable time or period

It will have been observed that the notice of 21st April specified a period within which breaches were to be remedied. The enactment, unlike the forfeiture notice enacted in the Law of Property Act, 1925, s. 146 (1), expressly provides for alternatives. There is surprisingly little authority on whether it is advisable, in the case of a forfeiture notice based on a remediable breach, to specify a period, which is usually done; and one might expect a decision on the question whether, if a landlord had specified too short a period but waited till a reasonable time had elapsed, he would be debarred from proceeding. In the case of notices under the Agricultural Holdings Act, 1948, s. 24 (2) (*d*), with its "within a reasonable time or within such reasonable period as was specified in the notice," the naming of an unreasonable period would be fatal; and one wonders why landlords so often do specify a period. If none is specified, it may be that the tenant will be able to complain that he was not told how long he had; but the complaint would not be well founded. Further, while, if a period is given, its reasonableness will no doubt have to be judged in the light of conditions prevailing when it is given, a tenant might feel aggrieved if unexpected events prevented him from complying within the period, e.g., the recent floods; a tenant farmer does not employ frogmen.

"Not inconsistent"

The curious double negative in the phrase "any term or condition of his tenancy which was not inconsistent with the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry" (which also occurs in para. (*e*): irremediable breaches) has also not been the subject of judicial interpretation. Apart from considerations of elegance, it is, perhaps, capable of misleading, by suggesting to a tenant farmer that he could reply that a breach relied upon was a breach of a term which had nothing to do with good husbandry. In my submission, the answer is available only when it is found that the term or condition actually militates against good husbandry. Thus, a breach of a covenant not to take in "summer guests" (and there are tenancy agreements with provisions of that nature) would, I suggest, be a breach of a term not inconsistent with the fulfilment of the responsibilities to farm in accordance with the rules of good husbandry.

R. B.

HERE AND THERE

DEEP IN SLEEP

I HAVE never been to Market Deeping but my mental picture of it is delightful. Its very name somehow suggests the summer sleepiness, the somnolence under shady trees of the rural England of once-upon-a-time, deep, deep, deep in sleep and peace. That is how it should be and that apparently is how it means to stay. It has proclaimed that in the heart of the cacophony which is now the chronic state of England it shall become a zone of silence. While the rest of the country resounds with the din of decibels, Market Deeping shall be at peace. If the Noise Abatement Society is in search of a capital, here is the very place for it, a sanctuary of elected silence, a holy place, gently and noiselessly extending its sacred frontiers. Already it has converted the Kesteven Council in whose district it is situated and persuaded it to promulgate the new beneficent byelaw which is to alter the entire character of this tract of Lincolnshire and make it for ever idyllic, with a strange otherworldly charm, for the byelaw which has just been approved is directed to forbidding domestic animals to make a noise in the night. Dogs may not serenade the moon. Cats must resign themselves to quiet weddings. Cows about to calve may no longer summon the farmer and the veterinary surgeon with urgent bellows. If the cock's shrill clarion rouses three neighbours from their lowly beds before it is morning as plain as can be, the result may be a formal complaint in triplicate. Such a complaint will oblige the owner of this offending creature to spend the next fortnight explaining to it the ethereal beauties of silence and if he fails he will be liable to a fine of £5.

SOOTHE THE DOMESTIC BEAST

What can have prompted this bold experiment in rural legislation? Sheep have been bleating, turkeys gobbling, pigs grunting, dogs barking, ever since they left the Ark. But the clerk to the Kesteven Council said: "We could not consider legislation for one village, as the problem is more widespread." What have those Lincolnshire domestic animals been up to? Had they been raising their voices in a concentrated chorus of subversive revolutionary songs, a prelude to an "Animal Farm" episode? Anyhow, there is the byelaw and I hope the Noise Abatement Society will keep an eye on its implementation and effects, particularly as regards that influential member of British society, the dog, so much given to soliloquies and forceful comment on the world in general and passers-by in particular. It will be very hard to convince him of the charm of silence. The dog is not a natural Trappist or Carthusian. There is far more of the Marble Arch orator in his make-up. Some dogs, I think, are quite capable of barking in their sleep. They are not my idea of "Dumb Friends." What, then, must be the resort of owners of animals with a taste for nocturnal conversation? Hypnotism is somewhat in favour again, so perhaps the conscientious farmer could hypnotise his livestock last thing at night. Or the farmer's wife might try her voice at a lullaby. Again, since farming has now become an offshoot of the chemical industry, maybe the research chemists could produce a wide range of sleeping pills suitable for domestic animals of all sizes and habits. Or, once the idea catches on that there is shallow sleep and night starvation in

the farmyard, a well-known series of hot-drink-at-night advertisements will have a perfectly splendid new field for a new line in biography-strip advertisements. However, now that psychiatry is spreading to the animal kingdom, and dogs and cats are being persuaded to confide in psychoanalysts, probably the best answer lies in that direction. As I said, I applaud the initiative of Market Deeping and Kesteven in their attempt to silence all those night noises which have been spoiling the repose of agricultural man since the first farm. Now all they have to do is to approve some more byelaws dealing with motor-cycle exhausts (recently described as the mating cry of the twentieth century), radios, helicopters, jet planes, transport lorries and pneumatic drills, and perfect peace will resume her reign.

RICHARD ROE.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Company Searches

Sir,—1. Reference to Emmet on Title (14th ed.), vol. 2, p. 606, shows that Emmet is doubtful whether there is any need to search and does not encourage such a search to be made, when purchasing registered land.

2. Section 60 (1) of the Land Registration Act, 1925, deals with the point and reference may be made to Curtis and Ruoff on Registered Conveyancing, 1958, p. 400, where their opinion is strongly stated that no company search is necessary.

3. With regard to the possibility of there being special provisions, in the articles of association of a company, governing the affixation of the company's seal, reference may be to s. 74 (1) of the Law of Property Act, 1925. A purchaser is sufficiently protected if the conveyance has been executed within that subsection.

4. With regard to notices concerning winding up or dissolution, which might be registered at the Companies Registration Office, reference may be made to s. 59 (1) of the Land Registration Act, 1925, which provides that for protection of a creditor against registered land a creditor's notice or caution against dealings should be registered on the Land Register.

5. As no company search is necessary, it is not considered that any action in respect of the matters found thereby is necessary.

P. AWBERY WHITE.

Caterham,
Surrey.

Smith's Case

Sir,—I have just read the article on *Smith's* case by "J.B.G." in your issue of 25th November and feel that I must say how unfortunate the heading of that article appears to be. I do not wish to enter into any detailed discussion of legal theory but, as (I hope) a practical man and a practical lawyer, I cannot see how any view of the *Smith* decision of the House of Lords can be a pessimistic one. If ever there was a case where the accused ought to be found guilty of murder surely this was it. For any man who, having been requested by a policeman to stop, drives off down the street with the policeman still hanging from his car and directly causes that policeman to die, to argue that he is not guilty of murder is plainly ridiculous, unless he can at the same time prove that his mental condition was such that he ought permanently to be detained in some mental treatment hospital.

Your contributor does say "leaving aside considerations of desirable social policy in relation to criminal responsibility . . ." but this is plainly what we cannot do. If the law is to mean anything at all and to command any respect it must surely accord with the views of reasonable human beings. We as lawyers must not surely look at any legal problems divorced from their practical results and if we do the law will fall into disrepute and rightly so.

If your contributor is right (and I would be far from agreeing with this) that the criminal law has supported the "golden thread of subjective guilt" theory then clearly it is high time that the law was changed. In this light the decisions in *Ward's* case and more strongly in *Smith's* case are only to be welcomed from every point of view as bringing the law nearer to a reasonable and proper interpretation of the facts of the case.

Such decisions bring the law nearer to the views of reasonable members of society and farther from the views of the namby-pamby penal reformers and sentimentalists who would apply the subjective test in every case and say that the poor criminal is never a criminal but only a maladjusted misfit or social outcast. This regrettable attitude has never been more clearly shown than in the disgraceful recent public outcry about the conviction and sentence of the young men who kicked an innocent passer-by to death in an alley and who richly deserved the sentence they received.

R. C. R. GOODMAN.

Leicester.

"THE SOLICITORS' JOURNAL," 15th DECEMBER, 1860

ON the 15th December, 1860, THE SOLICITORS' JOURNAL reported: "The atrocious murder of M. Poinsot, one of the Presidents of the Imperial Law Courts, which took place in the night of Wednesday, the 5th instant in a first-class carriage on the Strasbourg Railway, while he was returning to Paris to attend to his judicial duties on the following day, has created the greatest consternation and excitement among all classes in Paris, more especially among the judges and other members of the legal profession, by whom he appears to have been held in high esteem . . . M. Poinsot commenced his life as simple clerk to an avoué at Bar-sur-Aube. He afterwards became advocate and pleaded before the Civil Tribunal of Troyes . . . M. Poinsot was twenty years in the magistracy. After having been Procureur du Roi at Troyes, he was appointed in 1833 substitute at the Civil Tribunal of the Seine. He was afterwards named substitute of the Procureur-General of Paris and on the 14th April, 1847, was nominated Advocate-General of the same court. He was dismissed on 28th February, 1848 (after the Revolution), but on 2nd May of that year was appointed a judge of the Court of Appeal of Paris. On 6th April, 1857, he was named President of one of the chambers of the Imperial Court. The funeral of the late M. Poinsot took place on Saturday at the church of St. Louis d'Antin, which was far too small to contain the number of people anxious to be present . . . The service was celebrated by the curé of St. Louis, M. Martin de Noirlieu, and at its conclusion the body was taken to the Strasbourg railway station to be conveyed to the family vault at Chaource."

Honours and Appointments

Mr. HENRY FREDERICK HALES, Deputy Town Clerk of Margate, has been appointed Clerk to the Calne and Chippenham Rural District (Wilts.) to succeed Mr. Dennis Parker Harrison.

Mr. PAUL SMITH, Deputy Clerk of the Redditch Urban District Council, has been appointed Clerk on the retirement of Mr. William Irving Watkins.

REVIEWS

The Machinery of Justice in England. Third Edition. By R. M. JACKSON, LL.D., Solicitor, Reader in Public Law and Administration in the University of Cambridge. pp. xiii and (with Index) 417. 1960. London: Cambridge University Press. £2 5s. net.

As the preface to the first edition stated, the object of this book is to explain the system of law courts and allied matters relating to the administration of justice in England. In attempting to achieve this vast object in less than 400 pages the almost inevitable risk is run of the result being dissatisfyingly superficial or else tediously compressed. Dr. Jackson never approaches or even suggests either of these two extremes. Indeed, the operative word of the stated object is "explain": not only is the theory of the machinery of justice stated but also both how in practice it works and, of even greater interest, how it ought to work. This latter aspect, law reform, is a recurrent theme which, in this edition, primarily relates to the organisation of and procedure in the superior courts. It goes without saying that all relevant matter since the publication of the second edition has been incorporated as appropriate. This book remains what the earlier editions had proved it to be, namely, an entertaining and provocative treatise on the English legal system. It is aimed at students who are approaching law for the first time and these it can hardly fail to encourage rather than repel. The work is more than a mere introduction; it can be read with gain both by the advanced student of jurisprudence and by that legion of laymen who are immensely curious about law. Even a practitioner could and, indeed, should find enormous interest and enlightenment between its covers.

Kerly's Law of Trade Marks and Trade Names. Eighth Edition. By R. G. LLOYD, C.B.E., M.A. (Cantab.), B.Sc. (Lond.), J.P., of Gray's Inn and the Middle Temple, Barrister-at-Law. pp. lxiv and (with Index) 704. 1960. London: Sweet & Maxwell, Ltd. £7 7s. net.

This edition has the same layout and covers the same ground as the seventh edition. It deals comprehensively not only with the law and practice relating to trade marks, but also with Passing-off, Trade Names and the Merchandise Marks Acts. The Trade Marks Act, 1938, the Trade Marks Rules, 1938 to 1959, the International Convention for the Protection of Industrial Property and the Merchandise Marks Acts, 1887 to 1953, are set out in full in appendices. The revision has introduced the latest case law explaining points on which there was previously some doubt. One example of this is in chapter 4, on p. 35, on who may claim to be the proprietor of a trade mark, where a number of cases between 1956 and 1959 are considered. Another is in chapter 8, on p. 134, on the practice relating to the registration of letters as stated in *Ford-Werke's Application* (1955), 72 R.P.C. 191.

There are a number of improvements on the seventh edition. In the first place the print is much clearer and easier to read. This has allowed closer spacing between the lines and reduction in the bulk of the book. Secondly, the revised system of sub-headings is much clearer to the reader than the system of marginal headings. Thirdly, lengthy provisions of the Act and Rules are summarised in the text and not set out in full. This clarifies the text and does not involve any loss, since the Act and Rules are set out in full in Apps. 1 and 2. Fourthly, a great deal of historical background, which is of no interest to the practitioner, has been eliminated. For the benefit of readers who are interested in this aspect of the subject, precise references are given to earlier editions of the work. Fifthly, some of the lengthy extracts from judgments have been reduced to summaries giving the *ratio decidendi* and references to the reports. Sixthly, the lists, such as those of invented and distinctive words accepted and refused, goods of the same and not of the same description, and examples of deceptive resemblance, have been made clearer by putting the names of the cases and the references to the reports as footnotes. Lastly, these improvements have reduced the text (excluding the appendices) from 727 pages to 486, making it easier to find a clear statement on the point under consideration.

A valuable feature of the book is the inclusion in a number of places of summaries of the established principles and rules of practice guiding the court and the Registrar. There is, for example, a list, on p. 89, of words coined by telescoping two dictionary, and generally descriptive, words. To be consistent, however, the practice stated in Official Ruling (1953) A, 70 R.P.C. 141, when one of these words is of a laudatory character, should also be set out, instead of merely being given a footnote reference on p. 141. There is, incidentally, no reference to this ruling either in the index or in the table of cases.

There are three other matters which call for criticism. In the first place, the attempt, in chapter 20, to deal with the law on Trade Secrets and Breach of Confidence is not only out of place in this book, but also misleading in that it is incomplete. Secondly, references are often given to other chapters in the book, without giving any pages. Since the chapter number is not shown on the page heading, the references are not easy to find. Lastly, although the adequacy of the index can only be determined by use of the book, it would appear, from a few tests carried out, that there is room for improvement.

This new edition of Kerly takes its place as a worthy successor to the previous editions and is a distinct improvement on the seventh edition. It remains the leading work on Trade Marks, Passing-off and Trade Names on which all those who are concerned with the law on these subjects, whether practitioners or not, will continue to rely.

Prosecuting Officer. By CHRISTOPHER WILLIAMS, of Gray's Inn, Barrister-at-Law. Chief Constable of the Isle of Ely and Huntingdon. pp. (with Index) 194. 1960. London: Sweet & Maxwell, Ltd. 15s. net.

This book discusses the law applicable in a number of cases which come before a magistrates' court; its content consists mainly of discussions between a prosecuting inspector of police and his superintendent. There is a general statement of the rights of prosecutors and their conduct before the court, a chapter on evidence, and accounts of various cases conducted by the inspector before the magistrates. In each of them a number of points of law and evidence arise, which are fully discussed later by the two men. The law is stated accurately and in an interesting form, with references to the relevant cases and statutes, and Mr. Williams covers a wide field. The book is likely to be very useful to prosecuting officers and can be read with advantage by every young advocate; its method of relating the law to the specific cases reported makes it much more readable than the average law book.

The greater part of this book has already appeared as articles in the *Criminal Law Review*. Here and there additions have been made and the law has been brought up to date but mainly it is a word-for-word repetition of the articles. The book has been advertised in the *Criminal Law Review* but neither in the advertisement nor in its preface is any mention made of the fact that most of its contents have already appeared in print. A reader of the *Criminal Law Review* who buys it will then find that he has paid to buy something that he already has. We think that the publishers should clearly indicate the source of most of its contents.

The Estates Gazette Digest of Land and Property Cases, 1959

The price of the above publication, which was wrongly stated in our review at p. 978, *ante*, is £2 5s.

Wills and Bequests

Mr. ROBERT DYMOND, solicitor, of Brierley, Yorkshire, former deputy controller at the Estate Duty Office and author of Dymond's Death Duties, left £122,321 net.

Mr. EVAN LEWIS JONES, solicitor, of Rhayader, Radnorshire, formerly of Builth Wells, and former president of the Herefordshire, Breconshire and Radnorshire Law Society, left £17,732 net.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and, in general, full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note.

Judicial Committee of the Privy Council

SALE OF GOODS: IMPLIED TERM: FITNESS FOR PURPOSE: BREACH

Ashford Shire Council *v.* Dependable Motors Pty., Ltd.

Viscount Simonds, Lord Reid, Lord Radcliffe, Lord Tucker and Lord Morris of Borth-y-Gest. 29th November, 1960

Appeal from the High Court of Australia.

The appellants, the shire council of Ashford (N.S.W.), wishing to acquire a tractor for use in road construction work, the shire clerk, Heywood, after consulting Black, the president of the council and other councillors, and on their instructions, asked one, Bowman, who had recently been appointed the shire engineer but had not yet taken up his duties or become the servant of the council, to look at a tractor which the respondents, Dependable Motors Pty., Ltd., had for sale. Bowman said in evidence that he called on the respondents, told one Corney, their joint managing director, that he was there on behalf of the council, saw the tractor and asked about its capabilities and whether it would do the road construction work for which it was required, which he described, and said that he was told that it would. Corney denied that Bowman asked him whether the tractor was suitable, but admitted that he would have said that it was suitable for council work if he had been asked. Bowman made no written report of his conversation with Corney, but told the shire clerk that the tractor seemed big enough for the work. In reliance on Bowman's report the shire president, who had not been told what had taken place between Bowman and Corney, instructed the shire clerk to purchase the tractor. It was not reasonably fit for the purposes of road construction and the council claimed damages for breach of the implied condition in s. 19 (1) of the Sale of Goods Act, 1923–53 (N.S.W.), which provided: " Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment . . . there is an implied condition that the goods shall be reasonably fit for such purpose." The trial judge gave judgment for the defendants (respondents). On appeal by the council the Supreme Court of New South Wales set aside that judgment. On further appeal the High Court of Australia, by a majority, on 8th May, 1959, reversed the Supreme Court's decision and restored the judgment of the trial judge. The shire council now appealed.

LORD REID, giving the judgment, said that it was now admitted that the tractor was not reasonably fit for the purposes of road construction, and the question was whether the requirements of s. 19 (1) had been satisfied. In all the circumstances, the proper inference was that Bowman was being asked to anticipate his duties as shire engineer and to do gratuitously what it would have been his duty to do if he had already become the appellants' servant, and it must be inferred that he was given such authority as he would have had as their servant. Bowman was accordingly acting within the scope of his authority in disclosing to the sellers on behalf of the council the particular purpose for which the tractor was required, and that covered disclosing that purpose so as to show that he was relying on the sellers' skill or judgment in making his report to the appellants. Corney had no reason to suppose that the appellants were not relying on his (Corney's) assurances when they placed their order. The general statements of the law as to the nature of the reliance made by Lord Wright in *Cammell Laird & Co., Ltd.* v. *Manganese Bronze and Brass Co., Ltd.* [1934] A.C. 402, at p. 423, and by Lord Sumner in *Medway Oil and Storage Co., Ltd.* v. *Silica Gel Corporation* (1928), 33 Com. Cas. 195, at p. 196, did not deal with the position of a buyer who acted, as a corporation must do, through agents or servants. The making known to the seller of the buyer's particular purpose might take place during negotiations which preceded the making of the contract for sale. What was necessary was that the buyer should contract in reliance on what took place during the negotiations and that his reliance at the time when the contract was made was " a matter of reasonable inference to the seller and to the court," per Lord Sumner in *Manchester Liners, Ltd.* v. *Rea, Ltd.* [1922] 2 A.C. 74, at p. 90. Here Bowman was the agent of the appellants when obtaining Corney's assurances, and the president and shire clerk were equally only the appellants' agents when deciding to order and in ordering the tractor, and they were induced to do that by Bowman's report, which was induced by Corney's assurances received by Bowman on behalf of the appellants. Appeal allowed. The respondents must pay the appellants' costs in the High Court of Australia and before the board.

APPEARANCES: *C. L. D. Meares*, Q.C. (Australia), and *Michael Kerr* (*Fisher, Dowson & Wasbrough*); *R. G. Reynolds*, Q.C., and *R. J. Bainton* (both of Australia) (*Galbraith & Best*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law] [3 W.L.R. 999

House of Lords

ESTATE DUTY: FOREIGN IMMOVABLES: PROPER LAW REGULATING DISPOSITION

Philipson-Stow *v.* Inland Revenue Commissioners

Viscount Simonds, Lord Reid, Lord Radcliffe, Lord Tucker and Lord Denning. 30th November, 1960

Appeal from the Court of Appeal ([1960] Ch. 313; 104 SOL. J. 50).

By his will made in English form, a testator, having declared that, inasmuch as he had an English domicile, his will should operate as far as the case admitted according to English law, devised certain property in England, defined in the will as his " settled estates," to the use of his wife for life with remainder to the use of his eldest son for life with remainder to the use of the sons of his eldest son successively in tail male with remainders over. The testator devised and bequeathed the residue of his estate to his trustees on trust for sale to be held as if the moneys and investments representing the same were capital moneys arising from his " settled estates." The testator died on 17th May, 1908, domiciled in England. His wife died on 22nd December, 1930; and his eldest son on 23rd September, 1954. The testator's residuary estate included a farm known as " Steenbokspan," situated in the Union of South Africa, which property the trustees, in exercise of a power to postpone sale contained in the will, had retained. On the question whether the land in South Africa, which was by the law of South Africa immovable property, was, by virtue of s. 28 (2) of the Finance Act, 1949, excluded, for estate duty purposes, from the property passing on the death of the testator's son, Upjohn, J., held that the farm was not excluded, for the proper law regulating a testamentary disposition, such as this will under which the farm passed, of foreign land was dependent on the testator's intention, which in this case pointed to English law. The trustees appealed unsuccessfully to the Court of Appeal and now appealed to the House of Lords.

VISCOUNT SIMONDS said that the question whether this property was to be deemed to pass on the death of the

deceased so as to make estate duty payable on that event depended on the meaning and effect of a few words in s. 28 (2) of the Finance Act, 1949—" proper law regulating the devolution of the property so situate or the disposition under or by virtue of which it passes." Apart from the earlier law, the positive enactment by itself had a sufficiently clear meaning. To obtain exemption property situate abroad must by the law of the country in which it was situate be immovable property. That condition was satisfied in the present case. But it must further be established that the " proper law " regulating the devolution or the disposition under which it passed was not the law of England or Scotland. The question was what was the proper law regulating the devolution of the South African property or the disposition under which it passed. The question itself suggested what was the " proper " law. Did it add anything to " law " *simpliciter* "? The testator had by cl. 2 of his will declared his intention that his will should operate according to the law of England. The question remained whether, so far as the South African property was concerned, his disposition was " regulated " by the law of South Africa. No effective meaning could be given to " proper." Further, whatever the settlor's intention it could not prevail against the relevant law. The next question was what was the meaning of " disposition." It meant the particular devise or bequest. This almost inevitably led to the conclusion that in respect of a single disposition the relevant law was not ascertained once and for all when the instrument became effective. The proper law might change with a change in the subject-matter. Applying that to the present case, it was possible that, if and when the South African property was sold and the proceeds were gathered in, the proper law regulating the disposition would be English law. It was not necessary for the purpose of this case to decide that question. Until, however, the subject-matter had changed its nature and, having been an immovable, had become a movable, there was no justification for saying that the relevant law had ceased to be South African. Though a future sale of the land might result in a change of the relevant law, until that event the law remained that of South Africa. While foreign land was foreign land its disposition and its devolution were regulated by the law of the country where it was situate.

LORD REID, LORD TUCKER and LORD DENNING agreed that the appeal should be allowed.

LORD RADCLIFFE dissented.

Appeal allowed.

APPEARANCES: *Plowman*, Q.C., and *R. Cozens-Hardy Horne* (*Norton, Rose & Co.*); *P. Foster*, Q.C., and *E. B. Stamp* (*Solicitor of Inland Revenue*).

[Reported by F. H. COWPER, Esq., Barrister-at-Law] [3 W.L.R. 1008

Court of Appeal

RATING: WHETHER LAUNDRY INDUSTRIAL HEREDITAMENT OR RETAIL SHOP

Almond (Valuation Officer) *v.* Heathfield Laundry (Birmingham), Ltd.

Cushing (Trading as Fakenham Steam Laundry) *v.* Webber (Valuation Officer)

Lord Evershed, M.R., Harman and Donovan, L.JJ.

27th October, 1960

Appeals from the Lands Tribunal.

In the first appeal the valuation officer had appealed against a decision of a local valuation court that a hereditament at which a laundry business was carried on was an industrial hereditament and should be transferred to Pt. II of the valuation list. The second appeal had been made by the ratepayer against a decision by another valuation court that a laundry business should be included in Pt. I of the list, not being an industrial hereditament. The issue in both cases was whether the hereditament was excluded from being derated as an industrial hereditament because it was " primarily occupied and used for the purposes of a retail shop," defined to include " premises of a similar character where retail trade or business . . . is carried on," within the proviso to s. 3 (1) of the Rating and Valuation (Apportionment) Act, 1928, as expanded by s. 3 (4). In both cases the greater part of the laundry was collected and delivered by the laundry employees, but individuals could, if they wished, take their laundry to the hereditament and collect it, and a few customers did so. The Lands Tribunal held that each of the hereditaments was not an industrial hereditament and the ratepayers appealed in both cases.

LORD EVERSHED, M.R., said that, giving an everyday meaning to the words of the definition as recommended in *Turpin* v. *Middlesbrough Assessment Committee* [1931] A.C. 446, at p. 473, no one would say that these hereditaments looked like " a retail shop." *Dolton Bournes & Dolton, Ltd.* v. *Osmond* [1955] 1 W.L.R. 621, showed that a necessary characteristic of a retail shop was that the public were invited and did resort to it, but it was not conclusive in favour of the whole hereditament being a shop to show that, as in the present cases, the public could and did resort to some extent to it. *Finn* v. *Kerslake* [1931] A.C. 446, at p. 485, was distinguishable. No part of these hereditaments was used for the purposes of a retail shop. After referring to *Toogood & Sons, Ltd.* v. *Green* [1932] A.C. 663, his lordship said that the hereditaments were used for the single unified business of a laundry in each case and even if the parts of the hereditaments where the public went had been used or occupied for the purposes of a retail shop that would not have converted the whole of the hereditament into a retail shop or its equivalent. These hereditaments were not conducted as retail shops—nor was the laundry work ancillary to the part of the premises to which the public came. In *Ritz Cleaners, Ltd.* v. *West Middlesex Assessment Committee* [1937] 2 K.B. 642, the hereditament was used only for the purposes of a shop.

HARMAN and DONOVAN, L.JJ., delivered concurring judgments. Appeals allowed. Leave to appeal to the House of Lords.

APPEARANCES: *Patrick Browne*, Q.C. (*Linklaters & Paines*); *J. Ramsay Willis*, Q.C., and *J. R. Phillips* (*Solicitor of Inland Revenue*).

[Reported by Miss E. DANGERFIELD, Barrister-at-Law] [1 W.L.R. 1339

APPLICATION BY THIRD PARTY TO SERVE FOURTH PARTY NOTICE ON FIFTH PARTY

Piddock *v.* Clifford Products, Ltd.; Industrial Guarding Equipment, Ltd. (third party); Baldwin Instrument Co., Ltd. (fourth party); B.A.L., Ltd. (fifth party)

Sellers, Pearce and Devlin, L.JJ. 9th November, 1960

Appeal from Elwes, J.

The trial of an action between the plaintiff, defendants and third party took place on 15th December, 1958. Before the trial the third party had been given leave to issue a fourth party notice, and the fourth party had been given leave to issue a fifth party notice. After the trial on 20th April, 1960, the third party took out a summons which purported to be under R.S.C., Ord. 16A, r. 11, asking for leave to serve a fourth party notice on the fifth party. The application was refused by the master and on appeal his decision was reversed by Elwes, J. The fifth party appealed.

SELLERS, L.J., said that it appeared that, although not in terms so stated, the summons was taken out under, and reliance was placed on, R.S.C., Ord. 16A, r. 11. On the facts of the case the rule was not applicable at all, as the fifth party against whom these proceedings had been taken was already

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a party to the proceedings and to the action to which reference was made in that regulation. He (his lordship) would accede to the submission that in all the circumstances it would be more appropriate, having regard to the state of the procedure at the present time, to leave the third party to proceed by way of original writ and to consolidate the proceedings, if it was so desired, with those that were already in being. The appeal should be allowed.

PEARCE, L.J., concurring, said that since the fifth party were already a party, the proposed fourth party proceedings against them could not properly be allowed under Ord. 16A, r. 11. It might well be that they could apply under Ord. 16, r. 11, to add the fifth party as a defendant in the existing third party proceedings, although that course would create certain difficulties under the later rules of Ord. 16.

DEVLIN, L.J., also concurring, said that one of the rights of a third party who had joined a fourth party must be to be able to apply to the court for leave to join an additional fourth party. That was the course which the third party ought to have taken in this case when they wished to join the fifth party as an additional fourth party. They, however, applied (as if there were no fourth party in existence) under Ord. 16A, r. 11, for leave to serve a fourth party notice; that was not the right procedure if there was a fourth party, with the rights of a defendant, already in existence. Appeal allowed.

APPEARANCES: *Bernard Caulfield* (*Clifford-Turner & Co.*); *E. Ryder Richardson*, Q.C., and *Ian Fife* (*A. D. Vandamm & Co.*, for *Hewitt & Walters*, Birmingham).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law] [1 W.L.R. 1383

COMPANY "TAKE-OVER" OPPOSED BY MINORITY SHAREHOLDER: COURT'S DISCRETION TO REFUSE PURCHASE ORDER

***In re* Bugle Press, Ltd., Application of H. C. Treby; *In re* Houses and Estates, Ltd.**

Lord Evershed, M.R., Harman and Donovan, L.JJ.
11th November, 1960

Appeal from Buckley, J. ([1960] 2 W.L.R. 658; p. 289, *ante*).

Of the three shareholders in a publishing company with an issued share capital of 10,000 shares of £1 each, the two majority shareholders each held 4,500 and the minority shareholder the remaining 1,000 shares. In 1958, the majority shareholders promoted and caused to be incorporated a transferee company to the memorandum of which they were the sole subscribers, and of which they each held 50 of the 100 issued shares. The transferee company did not carry on business, but on 14th July, 1959, it made an offer to all three shareholders for their shares at £10 for each share. The offer was based on a valuation made by independent valuers of the fair price for the transferor company's share capital as £100,000. In the letter making the offer it was stated that the majority shareholders would accept. The minority shareholder refused the offer. The transferee gave notice of intention to exercise the statutory power of compulsory acquisition under s. 209 of the Companies Act, 1948, and the minority shareholder sought a declaration under the section that the transferee company was neither entitled nor bound to acquire his shares on the terms offered, notwithstanding the approval of the majority of the shareholders. The minority shareholder filed evidence to show that the offer was below the value of his shares. The transferee company filed no evidence to support the valuation or to show the nature of the instructions given to the valuers or to give details of the information on which it was based. Buckley, J., made the declaration sought and the transferee company appealed. It was conceded on the appeal that the transferee company was promoted in order to invoke the powers of s. 209 of the Act of 1948. The facts relating to the second appeal were substantially the same.

LORD EVERSHED, M.R., said that although the case was strictly within the terms of s. 209 it was not the type of case envisaged by the section. The minority shareholder, by showing that the offeror and the 90 per cent. of the transferor company's shareholders were the same, had shown prima facie grounds why the court should, in the exercise of the unlimited discretion confered by s. 209 of the Act of 1948, "order otherwise" than to sanction the expropriation of the minority. The powers of s. 209 should not be used to evict a minority unless good reasons in the interests of the company were shown.

HARMAN, L.J., delivered a concurring judgment and DONOVAN, L.J. agreed.

Appeal dismissed. Leave to appeal to the House of Lords refused.

APPEARANCES: *Ralph Instone* (*Blakeney & Co.*); *Sir Milner Holland*, Q.C., and *Morris Finer* (*Henry E. Goodrich*).

[Reported by Miss E. DANGERFIELD, Barrister-at-Law] [3 W.L.R. 936

Chancery Division

LANDLORD AND TENANT: OPTION TO GRANT FURTHER LEASE: VALIDITY

Weg Motors, Ltd. *v.* Hales and Others

Danckwerts, J. 3rd November, 1960

Action.

By a mortgage dated 8th July, 1937, and registered in the charges register on 10th July, 1937, the *G* company, the legal owner of premises with a registered title, charged them by way of legal mortgage to the *S* company, the deed providing that the statutory powers of leasing and accepting surrenders of leases should not, save in the case of leases for terms up to twenty-one years, be exercisable by the borrowers without the written consent of the lenders. By a lease dated 26th July, 1938, the *G* Company granted a lease of the premises to the *W* company for a term of twenty-one years from 25th December, 1938, determinable by the lessee at the end of seven or fourteen years at a rent of £1,500 per annum. By an agreement made between the same parties (that expression including their successors in title) and also dated 26th July, 1938, but signed before the execution of the lease, it was agreed that in consideration of the *W* company taking the lease of even date but "executed after these presents" it should have the option, exercisable at any time before 25th December, 1959, of taking a further lease for a term of twenty-one years at the same rent, if the lease had not already determined. The further lease was to commence from the date of the exercise of the option, when the *G* company would accept surrender of the old lease. The option was registered on 5th January, 1939. On 15th October, 1941, the *H* company was registered as proprietor of the freehold and by a transfer dated 11th February, 1947, and registered on 21st February, 1947, it transferred the premises to the trustees of the *R* company, subject to the option. By a lease dated 11th February, 1947, and also registered on 21st February, 1947, the trustees of the *R* company demised the premises to the *H* company for a term of 150 years at a yearly rent of £5,000 subject to the option. By a deed of substituted security of even date the *H* company demised the premises to the *S* company for a term of 150 years less ten days subject to the right of redemption on payment of the principal and interest owing under the mortgage of 8th July, 1937, and the *S* company surrendered the freehold title to the trustees of the *R* company, "the reversioners," to the intent that the mortgage term should cease and merge in the reversion, but subject to the lease of 11th February, 1947. On 21st February, 1947, the entry of the mortgage in the charges register was cancelled and the *H* company was registered as proprietor of the leasehold. By a notice dated 30th April, 1959, the

W company gave notice to the *H* company, the *R* company and the *S* company exercising the option contained in the agreement of 26th July, 1938. The *H* company refused to renew the lease, the *R* company stated that it was not in a position to grant a renewal but that it was a matter for the *H* company, and the *S* company stated that its consent would not be required for the grant of any lease for a period of up to twenty-one years. The deed of substituted security was discharged on 2nd September, 1959. The *G* company had ceased to exist at least fifteen years previously. The *W* company brought an action against the trustees of the *R* company, the *H* company and the *D* company (to which the *H* company had by a registered transfer dated 10th July, 1959, transferred its leasehold interest), for specific performance of the agreement containing the option for the grant of a further lease.

DANCKWERTS, J., said that as the *G* company had ceased to exist the action was properly constituted without it. The most important question was whether the agreement containing the option was a covenant for the renewal of a lease. If it were not, so far as it amounted to an attempt to create an interest in land, it would be invalid by reason of the rule against perpetuities: *London & South-Western Rly. v. Gomm* (1884), 28 SOL. J. 616. But if the agreement were one for the renewal of a lease, the matter was not affected by the rule against perpetuities at all. Covenants for the renewal of leases were said to be an anomalous case which should not be extended. It seemed to be a sensible exception. It appeared that covenants for the renewal of leases had become established as valid long before the rule against perpetuities was evolved to prevent unbarrable entails, and they did not seem to be involved in the abuses which the rule against perpetuities sought to correct. On the construction of the agreement of 26th July, 1938, the option was an option for the renewal of the lease. In consideraton of the lessees taking the lease of even date, the lessees were given the option of "taking a further lease." The fixing of the end of the period during which the option was exercisable coincided with the end of the term of twenty-one years granted by the lease of the same date, and it was inconceivable that the option was to be exercisable when the term had been determined by the lessees or by their forfeiture of the lease and the exercise by the landlords of the condition of re-entry. In the result, he held that the option was only exercisable while the relationship of landlord and tenant continued. He reached this conclusion as a matter of construction, but it would be admissible in this case to imply a term to the same effect. Further, the agreement, not being a contract to grant a reversionary lease, was not rendered void by s. 149 (3) of the Law of Property Act, 1925: see *In re Strand and Savoy Properties, Ltd.* [1960] 3 W.L.R. 1; p. 491, *ante*. The option ran with the reversion under s. 142 of the Act of 1925, since the lease and the option agreement must be treated as one transaction; the agreement was an integral part of the transaction, and not merely collateral. The word "covenant" was often used to describe a contract under seal or in a deed, but in the law of landlord and tenant it was not confined to that meaning. It was commonplace to have tenancies by agreements which were not under seal and were not required by law to be made by deed. The stipulations contained in such agreements were generally treated as running with the land, and s. 142 of the Law of Property Act, 1925, could not have been intended to upset the law of landlord and tenant in this respect. A covenant for renewal of a lease had always been regarded as a covenant having reference to the subject-matter of the lease. On 26th July, 1938, the only reversionary estate was that vested in the *G* company as owner of the fee simple, and that company, therefore, had power to bind the reversionary estate immediately expectant on the term granted by the lease. Accordingly, the *W* company was entitled to specific performance of the option against the *H* company and the *D* company. The trustees of the *R* company, as the present freeholders, were bound by the lease and the option, and the *W* company was entitled to specific performance of the option against them.

APPEARANCES: *R. W. Goff*, Q.C., and *Ivor Phillips* (*Curwen, Carter & Evans*); *John L. Arnold*, Q.C., and *Eric Griffith* (*Sharpe, Pritchard & Co.*, for *Bremner, Sons & Corlett*, Liverpool); *H. E. Francis*, Q.C., and *A. A. Baden Fuller* (*Franks, Charlesly & Co.*).

[Reported by Miss M. G. THOMAS, Barrister-at-Law] [3 W.L.R. 964

WILL: GIFT OF CHATTELS OF ARTISTIC AND HISTORIC INTEREST "FREE OF DUTY": DIRECTION TO TRUSTEES TO PAY DUTIES PAYABLE "ON MY DEATH"

***In re* Bedford; Russell *v.* Bedford**

Cross, J. 11th November, 1960

Adjourned summons.

By cl. 2 of his will a testator bequeathed to his children to be fairly and equally distributed among them "free of duty" all his chattels of a certain character. By cl. 14 he directed his trustees to "pay the estate duty payable on my death in respect of any part of my estate real or personal and all legacy succession and other duties payable on my death on any gifts by this my will or any codicil hereto which are made free from duty." The residue of his estate was directed to be divided in various proportions between a number of beneficiaries who took absolute interests therein. The chattels bequeathed to the testator's children included chattels of artistic or historic interest which were exempted from estate duty while in the hands of the legatees by s. 40 of the Finance Act, 1930. The trustees issued a summons to determine whether the duty which would become payable on the proceeds of sale of the exempt chattels in the event of their being sold by the legatees in their lifetime should be borne by the legatees themselves or by the testator's residuary estate.

CROSS, J., said that counsel for the residuary legatees conceded that if cl. 2 stood alone and there was simply a gift of the chattels free of duty to the specific legatees, the case would be indistinguishable from *In re Scott* [1916] 2 Ch. 268. He (counsel) said that the will must be read as a whole and, reading cll. 2 and 14 together, the words "free of duty" meant "free of duty payable on the death of the testator" as opposed to duty payable at some other date. He (Cross, J.) thought it would be contrary to sound canons of construction to read a clause such as cl. 14, which was merely an administrative provision, as cutting down what he thought was the prima facie meaning of the phrase "free of duty" in cl. 2. The duty contingently payable on a sale by a legatee in his or her lifetime would, therefore, be payable out of residue.

APPEARANCES: *E. G. Wright* (*Taylor & Humbert*); *John Brightman* (*Taylor & Humbert* and *Bell, Brodrick & Gray*); *Michael Fox* (*Taylor & Humbert*).

[Reported by Miss V. A. MOSS, Barrister-at-Law] [1 W.L.R. 1331

Queen's Bench Division

PRIVATE STREET WORKS: OCCUPATION WAY: USE BY PUBLIC FOR RIGHT OF WAY: WHETHER REPAIRABLE BY INHABITANTS AT LARGE

Margate Corporation *v.* Roach

Lord Parker, C.J., Cassels and Ashworth, JJ.

29th January, 1960

Case stated by Margate justices.

The Margate Corporation resolved, under s. 6 of the Private Street Works Act, 1892, to make up part of a street. Included

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(*continued on p. xix*)

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in the section of the street was a strip of land, 10 feet in width, which had been laid out as an occupation way at some date after 1835 and used as an occupation way only at least until 1898. In 1898 housing development took place, with houses fronting the west side of the street, and thereafter the strip was used by the public as a right of way on foot only. The corporation had never repaired the street or any part of it. One of the frontagers objected to the corporation's resolution on the ground, *inter alia*, that the street was in whole or in part a highway repairable by the inhabitants at large. The corporation contended that the dedication to the public of the former occupation way was a dedication to which s. 23 of the Highway Act, 1835, applied, but the justices, considering themselves bound by *Robinson* v. *Richmond* (*Surrey*) *Borough Council* [1955] 1 Q.B. 401, held that the corporation had no power to make up the 10-foot strip under the Act of 1892, and they quashed the resolution. The corporation appealed.

LORD PARKER, C.J., said that prima facie the facts of the case came squarely within s. 23 of the Highway Act, 1835. In *Robinson* v. *Richmond* (*Surrey*) *Borough Council*, *supra*, there never was any form of road or occupation way made at the expense of the individual or private person within s. 23. Here, the facts were very different because the strip was originally an occupation way. Accordingly, unlike the *Richmond* case, this case did come within s. 23 unless it could be said that the mere fact that the subsequent dedication was in respect of a footpath made any difference. His lordship had come to the conclusion that, while the *Richmond* case was binding on the court, the facts here were entirely different, and that s. 23 applied. The conditions of s. 23 had never been fulfilled and, accordingly, the strip had never become repairable by the inhabitants at large. His lordship would allow the appeal.

CASSELS and ASHWORTH, JJ., agreed. Appeal allowed.

APPEARANCES: *Nigel Bridge* (*Sharpe, Pritchard & Co.*, for *T. F. Sidnell*, Margate).

(Reported by Miss J. F. LAMB, Barrister-at-Law) [1 W.L.R. 1380

PRIVATE STREET WORKS: ROAD BORDERED BY PUBLIC FOOTPATH: WHETHER A "STREET": PREMISES FRONTING OR ADJOINING: DEFECT IN LOCAL AUTHORITY'S RESOLUTION: WHETHER JUSTICES MAY AMEND

Ware Urban District Council *v.* Gaunt and Others

Lord Parker, C.J., Ashworth and Elwes, JJ.

10th November, 1960

Case stated by Hertfordshire justices sitting at Ware.

In 1885 a road was laid out by *T*, part of it being laid alongside and undivided from a public footpath which was repairable by the inhabitants at large. In the same year, by a diversion order made by quarter sessions, another section of the footpath was diverted and made to lie open to the westerly side of the road. For the past forty years not only the footpath but the whole road had been used by the public on foot and no repairs had been carried out by the local authority in whose district the road lay, except to the public footpath. In 1956 the local authority, under s. 6 of the Private Street Works Act, 1892, passed a resolution, resolving that the road should be "levelled, paved, metalled, flagged, channelled and made good," and that the expenses should be apportioned upon the premises fronting, adjoining or abutting on the road. They approved a specification, estimates and provisional apportionments made by their surveyor. The specification included provision for new street lighting, which had not been specifically referred to in the resolution, and other works, including "surface water drainage, gulley pots and connections to soakaways." The cost of the work on the public footpath was to be deducted from the charges made on the premises affected. The occupiers of the affected premises objected to the apportionment pursuant to s. 7 (*a*) to (*f*) of the Act on the grounds, *inter alia*, that the road did not form part of a street within the meaning of the Act and was a highway repairable by the inhabitants at large, that certain of the works were not street works, and that there was a material defect in the resolution in that it contained no reference to street lighting so that such work could not be carried out. The county council, as occupiers of school premises included in the apportionment, also objected under s. 7 (*b*) on the ground that the premises fronting, adjoining or abutting on the road were the public footpath and not their premises. The justices decided that the proposed works were street works within the meaning of the Act and that they had power under s. 8 of the Act of 1892 to amend the local authority's resolution to include street lighting, but quashed the resolution and provisional apportionment on the grounds that the whole road, including the public footpath, was a highway repairable by the inhabitants at large.

ASHWORTH, J., delivering the first judgment, said that one object of s. 23 of the Highway Act, 1835, on which the local authority relied, was to protect ratepayers from being saddled with liability to repair roads laid down by private persons and dedicated to the public unless the conditions prescribed in the section to render the road repairable by the inhabitants at large were complied with. These conditions had not been complied with here either when the road was first laid out or since, and prima facie therefore the road, excluding the public footpath, was not so repairable and prima facie would fall within the definition of a "street" in s. 5 of the Private Street Works Act, 1892. Moreover, it was clear from *Margate Corporation* v. *Roach* [1960] 1 W.L.R. 1380; p. 1058, *ante*, that if land had in fact been laid out as a road or occupation way, s. 23 of the Act would apply to it, even though the only public use made of it was as a footpath. That decision was binding on the court and therefore, although this road had been used only as a footpath for the past forty years, it was a road to which s. 23 of the Act of 1835 applied and was not repairable by the inhabitants even up to the standard appropriate for a footpath. The justices' conclusion on that matter was wrong. Further, the justices were wrong in concluding that they had power under s. 8 (1) of the Act of 1892 to amend the local authority's resolution to enable them to provide street lighting notwithstanding the absence of any reference to it in the resolution. Under s. 6, if an authority wished to include lighting in the works proposed under that section, an essential step was a resolution expressing its dissatisfaction with the existing lighting. That step had not been taken in the present case and, as the respondents were entitled to insist that the provisions of s. 6 should be strictly observed, all references to lighting in the specification must be struck out. In relation to surface water drainage, there was no mention of sewering in the local authority's resolution and on principle and on the authority of *Wandsworth Borough Council* v. *Golds* [1911] 1 K.B. 60, and *East Barnet Urban District Council* v. *Stacey* [1939] 2 K.B. 861, the court had come to the conclusion that work of subterranean drainage was not covered by the word "channel" which did appear in the resolution and therefore, in so far as work of subterranean drainage was included in the item of surface water drainage in the specification, it should be struck out. The final question, whether it was open to the local authority to apportion part of the expense on premises separated from the road by the public footpath, involved as an ancillary problem the question whether part of the expense should be apportioned on the footpath itself. That problem must be considered on the footing that the "street" in which the private street works were to be carried out was the road itself excluding the footpath. On that basis the premises which fronted on the westerly side of the street were the public footpath and in those circumstances the school premises

owned by the county council did not so front; but as the inclusion of three alternative types of chargeable premises in s. 6, namely, those fronting, adjoining or abutting on the street, suggested something more than physical contiguity, the school premises could properly be said to adjoin it and therefore, together with the footpath fronting on the street, were premises upon which the expenses of making good the road might properly be apportioned.

ELWES, J., and LORD PARKER, C.J., agreed.

APPEARANCES: *C. E. Scholefield*, Q.C., and *Douglas Frank* (*Batchelor, Fry, Coulson & Burder*, for *Gisby & Son*, Ware); *P. M. Mottershead* (*Russell & Arnholz*, for *Chalmers, Hunt & Bailey*, Ware); *Harold Parrish* (*A. N. Moon*, Clerk, Hertfordshire County Council).

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law] [1 W.L.R. 1364

AGRICULTURAL HOLDING: PARTIAL FAILURE TO REMEDY BREACH OF CONDITION: VALIDITY OF NOTICE TO QUIT

Price *v.* Romilly

Diplock, J. 12th July, 1960

Motion to set aside the award of an arbitrator.

The landlord of an agricultural holding served the tenant with a notice in writing dated 21st April, 1959, requiring him to remedy seven specified breaches of covenant by 31st October, 1959. On 16th December, 1959, the tenant was served with a notice to quit. The notice purported to have been given pursuant to s. 24 (2) (*d*) of the Agricultural Holdings Act, 1948. The question whether this was a valid notice was referred to arbitration under the Act and by his award the arbitrator found that the notice was valid as the tenant had not complied with para. 1 of the earlier notice of 21st April, 1959, and so had broken his tenancy agreement by failing to farm in accordance with the rules of good husbandry. The arbitrator also found that, apart from this omission, the tenant had carried out the requirements of the earlier notice as far as it was possible for him to do so. The tenant applied to set aside the award on the ground that a partial failure to comply with the terms of a notice to remedy breaches of covenant was not sufficient to bring the case within s. 24 (2) (*d*) of the Act of 1948, the consent of the Agricultural Land Tribunal not having been obtained.

DIPLOCK, J., said that counsel for the tenant contended that it was sufficient if there was a "substantial compliance" with the terms of the notice. Those words were not in the Act, and there was no reason for reading them into the Act. No doubt the *de minimis* rule would apply, but the Act was plain in its terms, and, if a tenant failed to comply fully with the requirements set out in the notice, being requirements for remedying breaches of terms or conditions of his tenancy which were not inconsistent with the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry, the provisions of s. 24 (2) (*d*) of the Act were fulfilled. The really substantial argument which had been put forward was that "substantial compliance" with the notice sufficed; that argument failed. Application dismissed.

APPEARANCES: *Brian T. Neill* (*Ward, Bowie & Co.*, for *Scobie & Beaumont*, Hereford); *Anthony Cripps*, Q.C., and *P. G. Langdon-Davies* (*Robbins, Olivey & Lake*, for *Burges, Salmon & Co.*, Bristol).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] [1 W.L.R. 1360

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time:—

Electricity (Amendment) Bill [H.C.] [6th December.

Read Second Time:—

Expiring Laws Continuance Bill [H.C.] [6th December.
National Insurance Bill [H.C.] [6th December.

Read Third Time:—

British North America Bill [H.C.] [6th December.
Indus Basin Development Fund Bill [H.C.] [6th December.
Patents and Designs (Renewals, Extensions and Fees) Bill [H.L.] [6th December.

In Committee:—

Administration of Justice (Judges and Pensions) Bill [H.C.] [6th December.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time:—

Nurses (Amendment) Bill [H.C.] [1st December.

To amend the law relating to nurses for the sick.

Overseas Service Bill [H.C.] [7th December.

To authorise the Secretary of State to contribute to the expenses incurred in connection with the employment of persons in the public services of overseas territories or in respect of compensation paid to persons who are or have been employed in those services.

Race Discrimination Bill [H.C.] [7th December.

To make illegal discrimination to the detriment of any person on the grounds of colour, race and religion in the United Kingdom.

Restriction of Offensive Weapons Act, 1959 (Amendment) Bill [H.C.] [6th December.

To amend the law in relation to exposing for sale of flick knives and other dangerous weapons.

Small Estates (Representation) Bill [H.C.] [2nd December.

To amend the law relating to applications for grants of representation in the case of small estates.

Read Second Time:—

Betting Levy Bill [H.C.] [5th December.
Covent Garden Market Bill [H.C.] [7th December.
Local Authorities (Expenditure on Special Purposes) (Scotland) Bill [H.C.] [1st December.

B. QUESTIONS

LAND REQUISITIONED BY SERVICE DEPARTMENTS

THE CHANCELLOR OF THE EXCHEQUER said that, when Service Departments entered on land before compensation for compulsory permanent acquisition had been paid, interest was added for the period before settlement at the rate of 6½ per cent. at present. In the quite different circumstances of a Department restoring possession of requisitioned land to an owner, compensation might be paid for the cost of making good any damage to the land and if settlement was delayed interest was added at the rate of 2 per cent. [6th December.

STATUTORY INSTRUMENTS

Aliens Order, 1960. (S.I. 1960 No. 2214.) 6d.
British Nationality (Cyprus) Order, 1960. (S.I. 1960 No. 2215.) 8d.
Cinematograph Films (Renters' Licences) (No. 2) Regulations, 1960. (S.I. 1960 No. 2219.) 5d.
Customs (Land Boundary) Regulations, 1960. (S.I. 1960 No. 2186.) 5d.

REGISTER OF
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SOMERSET (*continued*)

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Weston-super-Mare and District.—MASTERS & CO., F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 5 High Street. Tel. 6443/4.

Yeovil and District.—PALMER, SNELL & CO., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. Tel. 25 and 1796. London Office: 130 Mount Street, W.1.

STAFFORDSHIRE

Stoke-on-Trent and North Staffs.—CHARLES BUTTERS & SONS, Established 1856. Chartered Auctioneers, Surveyors, Valuers and Estate Agents, Trinity Buildings, Hanley, Stoke-on-Trent. Tel. 2138/9. Also at Leek.

SUFFOLK

Bury St. Edmunds and East Anglia.—LACY SCOTT AND SONS, 3 Hatter Street, Bury St. Edmunds. Phone 43 and 692.

Ipswich and East Anglia.—SPURLINGS & HEMPSON (Est. 1780), Chartered Surveyors, Chartered Auctioneers, 26 Princes Street, Ipswich. Tel. 51807/8.

Ipswich and East Anglia.—WOODCOCK & SON, 16 Arcade Street, Ipswich. Tel. 54352 (2 lines). Specialists in Selling Country Property and Farms. Established 1850.

Woodbridge and East Suffolk.—ARNOTT & CALVER, Auctioneers and Valuers. Est. 1870. Tel. 179.

SURREY

Addiscombe, Shirley, Croydon.—MILLER, WILKINS AND CO., Auctioneers, Surveyors and Valuers, 191 Lower Addiscombe Road. Tel. ADDiscombe 2233/4; and 142 Wickham Road, Shirley. Tel. ADDiscombe 4021.

Ashtead and Leatherhead.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 8 High Street, Leatherhead. Tel. 4136/7 (5 Offices).

Camberley.—GIDDY & GIDDY, Estate House, London Road. Tel. 1919.

Camberley (Hants and Berks Borders).—SADLER AND BAKER, Chartered Auctioneers and Estate Agents, 95 High Street. Est. 1880. Tel. 1619.

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Cobham.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 47. Offices throughout West Surrey.

Coulsdon.—SINDEN, TOMKINS & KING, F.A.L.P.A., Valuers, Surveyors and Estate Agents, 26 Chipstead Valley Road. Tel. UPLands 0600.

Croydon.—BLAKE, SON & WILLIAMS. Est. 1798. Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 51 High Street, Croydon. CROydon 7155/6.

Croydon, Addiscombe and Wallington.—BOWDITCH & GRANT. (Est. 1881). Surveyors, Valuers, Auctioneers, 103/105 George Street, Croydon. Tel. CRO 0138/9.

Croydon and District.—JOHN P. DICKINS & SONS, Surveyors, Valuers and Estate Agents. Est. 1882. 2 and 4 George Street, Croydon. CROydon 3128/9/30.

Croydon and London.—HAROLD WILLIAMS AND PARTNERS, Chartered Surveyors, Valuers, Chartered Auctioneers and Estate Agents, 80 High Street, Croydon. Tel. Croydon 1931. And at Temple Chambers, Temple Avenue, E.C.4. Tel. Ludgate Circus 9288.

Croydon and Epsom.—ROBT. W. FULLER, MOON AND FULLER, Chartered Surveyors, Valuers and Auctioneers, 85 High Street, Croydon (CRO 3124/6), and at Epsom (communications to Croydon Office). Established 1824.

Croydon and Sutton.—SAINT, SYMINGTON AND STEDMAN, Surveyors, Auctioneers and Valuers, 106 High Street, Croydon. Tel. CRO 2216/7. And at 6 Chosm Road, Sutton. Tel. VIG 7616/7.

Dorking.—ARNOLD & SON, Auctioneers & Surveyors, 171 High Street and branches. Est. 1855. Tel. 2201/2.

Dorking.—WHITE & SONS, 104 High Street. Agricultural and General Surveyors and Valuers. Tel. 3255.

Dorking & London.—PEARSON, COLE & SHORLAND, Auction and Estate Offices, Dorking. Tel. 3897/8. Surveyors, Valuers and Auctioneers; and at 2 Hans Road, S.W.3. Tel. Kensington 0066.

Dorking, Bookham and Effingham.—CUBITT AND WEST. Tel. Dorking 2212, Bookham 2744. Valuers, Surveyors, Estate Agents.

Dorking and Reigate.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 258/260 High Street, Dorking. Tel. 4071/2. 6 Church Street, Reigate. Tel. 4422/3. And at Leatherhead and Epsom.

Epsom and Ewell.—DOUGLAS & CO., F.A.L.P.A. Principal Office: 10 High St., Epsom. Tel. 2362/4. (5 Offices, Ewell to Leatherhead).

Epsom and Leatherhead.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 21 High Street, Epsom. Tel. 4045/6. 4 Bridge Street, Leatherhead. Tel. 4133/4. And at Reigate and Dorking.

Esher.—EWBANK & CO., in association with Mann & Co. Est. 1891. Tel. 3537/8. Offices throughout West Surrey.

Esher and District.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street. Tel. Esher 12.

SURREY (*continued*)

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Farnham.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 4 Castle Street. Tel. 5274 (2 lines).

Farnham.—CUBITT & WEST. Tel. Farnham 5261. Valuers, Surveyors, Estate Agents.

Farnham.—EGGAR & CO., incorporating Curtis & Watson, Surveyors, Auctioneers, Land & Estate Agents, 74 Castle Street. Tel. 6221/3. And at Alton and Basingstoke, Hants.

Farnham.—GERMAN, ADDY & CO. (Est. 1903). Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 111 West Street. Tel. 5283/4.

Farnham.—WHITEHEAD & WHITEHEAD, amal. HEWETT & LEE, 32 South Street. (Tel. 6277).

Godalming.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, Estate Offices. Tel. 1722 (5 lines).

Guildford.—MANN & CO., Est. 1891, 22 Epsom Road. Tel. 62911/2. Offices throughout West Surrey.

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Haslemere.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 20 High Street. Tel. 1207.

Haslemere and Hindhead.—CUBITT & WEST. Tel. Haslemere 2345/6/7, Hindhead 63. Valuers, Surveyors, Estate Agents.

Kingston.—A. G. BONSOR, STEVENS & CO., Est. 1899, 82 Eden Street. Tel. KIN 0022.

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Mitcham.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, Upper Green. Tel. MITcham 6101/2.

Redhill and Merstham.—E. H. BENNETT & PARTNERS, Auctioneers and Valuers. Tel. Redhill 3672. Merstham 2234/5.

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Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 908 London Road. Tel. THO 3088 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

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(*continued on p. xx*)

SURREY (*continued*)

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Hove.—PARSONS SON & BASLEY (W. R. De Silva, F.R.I.C.S., F.A.I.), 173 Church Road, Hove. Tel. 34564.

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Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).

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Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Worthing.—EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.

Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.

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Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).

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Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

WESTMORLAND

Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.

Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 688.

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Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2. And at Ashby-de-la-Zouch, Burton-on-Trent and Derby.

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.

Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

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Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.

Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.

Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street, Tel. 30429.

Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.

Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.

Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.

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Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

East Devon Water (Lyme Regis) Order, 1960. (S.I. 1960 No. 2172.) 8d.

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Kenya (Constitution) (Amendment No. 2) Order in Council, 1960. (S.I. 1960 No. 2201.) 1s. 2d.

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London Traffic (Prescribed Routes) (Dorking) Regulations, 1960. (S.I. 1960 No. 2160.) 4d.

London Traffic (Prescribed Routes) (Heston and Isleworth) (Amendment) Regulations, 1960. (S.I. 1960 No. 2168.) 4d.

London Traffic (Prescribed Routes) (St. Marylebone and St. Pancras) Regulations, 1960. (S.I. 1960 No. 2191.) 5d.

London Traffic (Prescribed Routes) (Wandsworth) (No. 2) Regulations, 1960. (S.I. 1960 No. 2161.) 4d.

Magistrates' Courts (Matrimonial Proceedings) Rules, 1960. (S.I. 1960 No. 2229 (L.19).) 8d. See p. 1041, *ante*.

Makerfield Water Board Order, 1960. (S.I. 1960 No. 2178.) 1s. 5d.

Matrimonial Proceedings (Magistrates' Courts) Act, 1960 (Commencement) Order, 1960. (S.I. 1960 No. 2223 (C. 23).) 4d. See p. 1041, *ante*.

Merchant Shipping (Registration of Scottish Fishery Cruisers, Research Ships, etc.) Order, 1960. (S.I. 1960 No. 2217.) 5d.

National Insurance (Non-participation—Fire Services) Regulations, 1960. (S.I. 1960 No. 2185.) 5d.

North of Birmingham-Preston By-pass (Variation No. 3) and Wigan South Link Special Roads Scheme, 1960. (S.I. 1960 No. 2188.) 5d.

Northern Rhodesia (Native Reserves) (Amendment) Order in Council, 1960. (S.I. 1960 No. 2209.) 5d.

Nyasaland (Electoral Provisions) Order in Council, 1960. (S.I. 1960 No. 2210.) 5d.

Solicitors (Scotland) Act, 1958 (Commencement) (No. 2) Order, 1960. (S.I. 1960 No. 2205 (C. 22) (S. 115).) 4d.

Stopping up of Highways Orders, 1960 :—

County Borough of Barnsley (No. 4). (S.I. 1960 No. 2164.) 5d.
City and County Borough of Birmingham (No. 13). (S.I. 1960 No. 2166.) 4d.
County Borough of Croydon (No. 1). (S.I. 1960 No. 2165.) 5d.
County of Derby (No. 20). (S.I. 1960 No. 2173.) 5d.
County of Flint (No. 2). (S.I. 1960 No. 2174.) 5d.
County of Kent (No. 18). (S.I. 1960 No. 2189.) 5d.
County of Leicester (No. 24). (S.I. 1960 No. 2175.) 5d.
London (No. 66). (S.I. 1960 No. 2176.) 4d.
County of Nottingham (No. 11). (S.I. 1960 No. 2199.) 5d.
City and County Borough of Portsmouth (No. 7). (S.I. 1960 No. 2198.) 5d.
County of Somerset (No. 14). (S.I. 1960 No. 2167.) 5d.
County of Suffolk, East (No. 4). (S.I. 1960 No. 2200.) 5d.
County of Surrey (No. 7). (S.I. 1960 No. 2190.) 5d.
County of Wilts (No. 13). (S.I. 1960 No. 2177.) 5d.
County of York, West Riding (No. 23). (S.I. 1960 No. 2203.) 5d.

Supreme Court Fees (Amendment) Order, 1960. (S.I. 1960 No. 2171.) 4d.

This order, in force on 1st January, 1961, amends the Supreme Court Fees Order, 1930, by providing for fees in the Manchester District Registry to be taken in cash (as is done in all other District Registries of the High Court) instead of by impressed stamps.

Wages Regulation (Road Haulage) (No. 2) Order, 1960. (S.I. 1960 No. 2183.) 1s. 5d.

Wages Regulation (Sugar Confectionery and Food Preserving) (No. 2) Order, 1960. (S.I. 1960 No. 2206.) 6d.

SELECTED APPOINTED DAYS

December

2nd	Payment of Wages Act, 1960, ss. 1, 2, 3, 5, 6, 7, 9, Sched.
12th	Wages Regulation (Brush and Broom) Order, 1960. (S.I. 1960 No. 2151.)
17th	Baking and Sausage Making (Christmas and New Year) Order, 1960. (S.I. 1960 No. 2182.)
19th	Wages Regulation (Road Haulage) (No. 2) Order, 1960. (S.I. 1960 No. 2183.)

BOOKS RECEIVED

Legal Theory. Fourth Edition. By W. FRIEDMAN, LL.D. (London), Dr. Jur. (Berlin), LL.M. (Melbourne), of the Middle Temple, Barrister-at-Law. pp. xx and (with Index) 564. 1960. London: Stevens & Sons, Ltd. £2 5s. net.

How to Get Tax Relief for House Repairs. By P. J. WAISH. pp. 23. 1960. London: The Income Tax Payers' Society. Free to members.

The Court of Last Resort. By ERLE STANLEY GARDNER. pp. 333. 1960. London: Thorpe and Porter, Ltd. 2s. 6d. net.

The British Council Annual Report 1959–60. pp. vi and 110. 1960. London: The British Council. 2s. 6d. net.

The English Legal System. Third Edition. By A. K. R. KIRALFY, Ph.D., LL.M., of Gray's Inn, Barrister-at-Law. pp. xxxi and (with Index) 407. 1960. London: Sweet & Maxwell, Ltd. £2 2s. net.

The Conflict of Laws. Fourth Edition. By R. H. GRAVESON, LL.D. (Sheffield), S.J.D. (Harvard), of Gray's Inn, Barrister-at-Law. pp. xliv and (with Index) 587. 1960. London : Sweet & Maxwell, Ltd. £2 5s. net.

The Lawyer's Companion and Diary, 1961. Edited by W. H. REDMAN, M.B.E., of the Central Office, Royal Courts of Justice, and LESLIE C. E. TURNER. One Hundred and Fifteenth Year of Publication. 1960. London: Stevens & Sons, Ltd.; Shaw & Sons, Ltd. A day to a page, £1 15s. net. A week to an opening, £1 10s. net.

The Law of International Transactions and Relations: Cases and Materials. By MILTON KATZ, Henry L. Stimson Professor of Law and Director, International Legal Studies, Harvard University, and KINGMAN BREWSTER, Jr., Professor of Law, Harvard University. pp. xliv and (with Index) 863. Published under the auspices of The London Institute of World Affairs. 1960. London: Stevens & Sons, Ltd. £5 10s. net.

Clarke Hall and Morrison's Law Relating to Children and Young Persons. Sixth Edition. By A. C. L. MORRISON, C.B.E., formerly Senior Chief Clerk of the Metropolitan Magistrates' Courts, and L. G. BANWELL, O.B.E., formerly Chief Clerk, Metropolitan Juvenile Courts. pp. xlv, 723 and (Index) 41. 1960. London : Butterworth & Co. (Publishers), Ltd. £4 17s. 6d. net.

NOTES AND NEWS

CHANCERY JUDGES' CHAMBERS
CHRISTMAS VACATION ROTA 1960–1961

	Master	*Summons Clerk*
1960		
Thursday, 22nd December Friday, 23rd December Wednesday, 28th December Thursday, 29th December Friday, 30th December	MASTER PENGELLY (Room 168)	Mr. EMERY (Room 166)
1961		
Monday, 2nd January Tuesday, 3rd January Wednesday, 4th January	MASTER DINWIDDY (Room 154)	Mr. COLE (Room 156)
Thursday, 5th January Friday, 6th January Monday, 9th January Tuesday, 10th January	MASTER BALL (Room 157)	Mr. HANSON (Room 156)

Societies

THE LOCAL GOVERNMENT LEGAL SOCIETY

The annual general meeting of the Local Government Legal Society took place at the Naval and Military Club, Piccadilly, London, W.1, on Saturday, 3rd December.

In the morning, Mr. Justice Glyn-Jones gave a fascinating talk on his early experiences at the Bar, combining much practical advice with his reminiscences. He also gave his personal views on a number of points of legal interest that were put to him by his audience of sixty members of the Society.

At the luncheon which followed, his fellow guests included Sir Harold Banwell (Secretary of the Association of Municipal Corporations), Mr. W. L. Dacey (Secretary of the County Councils Association), Mr. E. R. Davies (representing the Society of Clerks of the Peace of Counties and of Clerks of County Councils), Mr. H. M. Lloyd (Under-Secretary of The Law Society) and Mr. H. S. Haslam, O.B.E. (Secretary of the Urban District Councils Association). Mr. Lloyd proposed the toast "The Local Government Legal Society," to which Mr. W. S. Holliday, chairman of the society, responded. The toast to the visitors was proposed by Mr. K. H. Potts, the vice-chairman of the society, and Mr. Davies replied.

The business meeting took place in the afternoon. The annual report revealed that a most successful week-end school for solicitors had been held in Leeds last April. It will be followed next year by a similar course at Loughborough from 14th–16th April. The annual provincial meeting will be held at Coventry on 22nd April. Mr. K. H. Potts (chief assistant solicitor, Leeds) was elected chairman for the coming year and Mr. I. G. Holt (deputy town clerk, Wallasey) vice-chairman. Mr. J. D. Schooling, Shirehall, Worcester, was re-elected hon. secretary and Mr. D. E. Almond, Borough Hall, Stafford, hon. treasurer. Subscriptions remain at 17s. 6d. and income tax rebate can be claimed. There are now 520 members and it is hoped that every assistant solicitor engaged in whole-time local government service will join.

SOLICITORS' BENEVOLENT ASSOCIATION

The annual general meeting of the Solicitors' Benevolent Association was held on 30th November at 60 Carey Street, London, W.C.2. The chairman, Mr. C. A. Surtees, presided and welcomed the president of The Law Society. In presenting the annual report and accounts the chairman referred to the appeal for new members which had been sent out in April to some 9,000 non-subscribers, and which had produced a welcome response from over 800 solicitors—this result, together with a further 215 new subscribers, had brought the total membership of the Association to 9,092. The relief granted during the year from all funds to 248 beneficiaries totalled £27,001 2s. 10d. For the first time since 1943 the accounts showed an excess of income over grants and administration expenses by some £4,250. This unusual factor was accounted for mainly by an increase in income from subscriptions and investments generally. The number of beneficiaries was the lowest since 1945, when the Association had 388 beneficiaries but the relief paid out during that year was £23,800. Although it had been necessary to spend a considerable amount of capital annually since 1943, the Association had continued to help as generously as possible the less fortunate members of the profession and their dependants.

Thanks were rendered to The Law Society for its continued help to and interest in the Association and for its generous donation, and to the many other benefactors, including the following provincial law societies which had made donations during the year: Berks, Bucks and Oxon, Birmingham, Blackpool and Fylde District, Bromley and District, Cambridge and District, Cardiff and District, Carlisle and District, Central and South Middlesex, Chester and North Wales, Chichester and District, Chorley, Cornwall, Croydon and District, Devon and Exeter, Dorset, Gloucester and Wiltshire, Gravesend and District, Grimsby and Cleethorpes, Hampshire, Kent, Leicester, Mid-Surrey, Monmouthshire, Northamptonshire, Rochester, Chatham and Gillingham, Somerset, South-East Surrey, Southend-on-Sea and District, Suffolk and North Essex, Tunbridge Wells, Tonbridge and District, Warrington, Warwickshire, Ltd., West Surrey and Worthing.

The board of directors were re-appointed and were thanked for their services during the past year. The honorary auditors, Sir Dingwall Bateson, C.B.E., M.C., and Sir Thomas Overy, and the auditors, Messrs. Edward Moore & Sons, were re-appointed.

The chairman referred to the tremendous amount of extra work that the staff had willingly accepted during the past year in connection with the appeal to non-subscribers and the meeting acclaimed the Association's gratitude to the staff. The meeting also passed a vote of thanks to the chairman for his services to the Association during his year of office.

At the monthly meeting of the board of directors which followed Mr. J. W. Kennard of Ashford, Kent, was elected chairman and Mr. Cecil G. Keith, O.B.E., M.C., of London, vice-chairman, for the ensuing year. Twenty-four applications for relief were considered and grants totalling £2,640 14s. were made, £340 of which was in respect of "special" grants for convalescence, clothing, etc.

Forms of application for membership and general information leaflets will gladly be supplied on request to the Association's offices, Clifford's Inn, Fleet Street, London, E.C.4. The minimum annual subscription is £1 1s. and a donation of £21 constitutes life membership.

At the annual dinner of the LEEDS UNIVERSITY LAW SOCIETY at the Great Northern Hotel, Leeds, on 1st December, Mr. Justice Marshall, responding to a toast to the guests, urged lawyers to play a greater rôle in society than they were doing at present. He said he had little faith in the ability of statute law to change the human heart or eliminate human prejudices. He very much hoped that lawyers would not merely become servants in a mercenary world but would devote more time to winning the many liberties which were still to be won. He regretted that fewer students after reading law were going to the Bar or becoming solicitors. Proposing a toast to the Society, Judge D. O. McKee welcomed particularly the presence of Commonwealth and overseas law students. Professor Patrick Fitzgerald, deputising for Professor Philip James, Head of the Law Faculty of Leeds University, proposed the toast to the guests, while Mr. David Pollard (president) responded to the toast to the society. Among the guests were Mrs. McKee, Mrs. Fitzgerald, Mr. G. Hornsey (Acting Dean of the Faculty) and Mrs. Hornsey.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices: Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. Telephone: CHAncery 6855.

Annual Subscription: Inland £4 10s., Overseas £5 (payable yearly, half-yearly or quarterly in advance).

Classified Advertisements must be received by first post Wednesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

Classified Advertisements

PUBLIC NOTICES—INFORMATION REQUIRED—CHANGE OF NAME
3s. per line as printed

APPOINTMENTS VACANT—APPOINTMENTS WANTED—PRACTICES AND PARTNERSHIPS and all other headings
12s. for 30 words. Additional lines 2s. Box Registration Fee 1s. 6d. extra

Advertisements should be received by first post Wednesday for inclusion in the issue of the same week and should be addressed to THE ADVERTISEMENT MANAGER, SOLICITORS' JOURNAL, OYEZ HOUSE, BREAMS BUILDINGS, FETTER LANE, E.C.4. CHAncery 6855

PUBLIC NOTICES

WREXHAM RURAL DISTRICT COUNCIL

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the above appointment in my office at a salary within Grade IV, namely, £1,140 to £1,310 per annum. Previous Local Government experience is not essential and newly admitted Solicitors may apply.

The Council is one of the largest Rural Authorities in England and Wales and the successful candidate will receive wide experience in the administration of the Housing, Planning and Public Health Acts and in the other work of a progressive Local Authority including committee work.

The appointment will be subject to the Local Government Superannuation Acts and the Scheme of Conditions of Service and may be determined by one month's notice in writing on either side. The successful candidate will be required to pass a medical examination. The Council will be prepared to assist in the provision of housing accommodation if required.

Applications, stating age, qualifications and experience, and containing the names and addresses of two referees, must be delivered to the undersigned not later than the 31st December, 1960.

Canvassing either directly or indirectly will be a disqualification and relationship to any member or senior officer of the Council must be disclosed.

TREVOR L. WILLIAMS,
Clerk and Solicitor.

Imperial Buildings,
Regent Street,
Wrexham.

30th November, 1960.

COUNTY BOROUGH OF WEST BROMWICH

ASSISTANT SOLICITORS

Assistant Solicitors required—N.J.C. Conditions of Service. Salary according to ability and experience up to maximum of £1,310 per annum. Five-day week from January next.

Applications with names of two referees to undersigned forthwith. November Finalists may apply.

J. M. DAY,
Town Clerk.

Town Hall,
West Bromwich.

THE LAW SOCIETY'S FINAL EXAMINATION

A vacancy occurs for an EXAMINER in Head 5 at this Examination, namely, Company Law and Partnership.

Applications for appointment are invited from members of the Society and must be received by the Secretary at The Law Society's Hall, Chancery Lane, W.C.2, not later than first post on Friday, the 20th January, 1961. Applicants should provide full particulars of their qualifications. Those who are required to attend for interview will be paid their reasonable travelling and subsistence expenses.

AMENDED ADVERTISEMENT

BOROUGH OF BRENTFORD & CHISWICK

ASSISTANT SOLICITOR

Applications invited for the above post which is on Grade "A" of the Lettered Grades. Salary £1,565 p.a. Provision of Housing accommodation and assistance towards removal expenses considered.

The appointment is subject to the conditions of service laid down by the Joint Negotiating Committee for Chief Officers of Local Authorities, in respect of the lettered Grades, to the Local Government Superannuation Acts and to the passing of a Medical examination.

Applications, stating age, qualifications, details of experience, date of admission and full details of present appointment and giving the names and addresses of two referees must be delivered to the undersigned by 30th December, 1960.

W. F. J. CHURCH,
Town Clerk.

Town Hall,
Chiswick, W.4.

SODBURY RURAL DISTRICT COUNCIL

CLERK'S DEPARTMENT—LEGAL ASSISTANT

Applications are invited for the above appointment at a salary within Grade APT. I (£645–£815 p.a.) commencing salary according to experience.

Duties will include conveyancing and general legal work, but Local Government experience not essential.

Assistance will be given in the provision of housing accommodation if required, and half removal expenses will be paid.

Applications stating age, qualifications and experience, together with the names and addresses of two referees should reach the undersigned not later than 23rd December, 1960.

H. G. WHEWAY,
Clerk of the Council.

Council Offices,
Chipping Sodbury,
Bristol.

EAST BARNET URBAN DISTRICT COUNCIL

LEGAL ASSISTANT

Applications are invited for appointment of Legal Assistant (unadmitted). Salary £960–£1,140 (A.P.T. III) plus London weighting. Duties will include conveyancing and general legal work. The appointment will be subject to the Local Government Superannuation Acts.

Applications, stating age, qualifications and experience, together with the names and addresses of two referees, should reach the undersigned not later than 29th December, 1960.

Canvassing will disqualify. Relationship to a member or officer of the Council must be disclosed.

ROBERT A. WINCH,
Clerk of the Council.

Town Hall,
Station Road,
New Barnet,
Herts.

APPOINTMENTS VACANT

PERCY BILTON LIMITED

Civil Engineering, Public Works & Building Contractors, Property & Factory Specialists, for recently formed Legal Department at their newly constructed Head Office at Ealing, require

MANAGING CLERK
(Admitted or Unadmitted)

Applicants should have experience in Conveyancing. A knowledge of contracts and/or other legal work would be an advantage. Good Progressive Salary according to age and experience. Bonus. Contributory Pension Scheme and other benefits.

Applications giving details of age and experience to

COMPANY SOLICITOR,
BILTON HOUSE, 54/58 UXBRIDGE ROAD,
LONDON, W.5.

CASHIER-BOOKKEEPER.—Full charge; staff 12; some Trust Accounts and straightforward tax. Very good salary, also L.V.'s.—Box 434, Reynells, 44 Chancery Lane, W.C.2.

LEGAL Department of large property group has vacancy for experienced Conveyancing Clerk. Office West End of London. Good salary commensurate with experience and ability.—Write Box 7241, full details.—Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST CENTRAL Solicitors require Assistant Solicitor for commercial practice. An exceptionally interesting position with good prospects. Newly admitted man considered. Commencing salary £1,250.—Write with full details of experience to Box 7242, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MELTON MOWBRAY.—Newly qualified Solicitor required by old established firm with busy general practice. Salary by arrangement.—Oldham, Marsh & Son, Nottingham Street, Melton Mowbray.

ROMFORD Solicitors require Clerk or Assistant Solicitor for Conveyancing and Probate work. Good progressive salary paid.—Write Box 7243, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROBATE Managing Clerk (admitted or unadmitted) required by West End firm to start separate department. Excellent opportunity. Salary commensurate with services offered.—Box 7233, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

STOKE-ON-TRENT.—Assistant Solicitor required by established practice for varied work, including advocacy and litigation. A newly admitted man would be suitable. Salary commensurate with ability.—Please write stating age, experience and salary required, Hollinshead & Moody, 52 Piccadilly, Tunstall, Stoke-on-Trent.

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★ Classified Advertisements ★

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APPOINTMENTS VACANT—*continued*

CONVEYANCING Managing Clerk (admitted or unadmitted) required by West End firm. General work of wide variety. Suitable where supervision still required for time being. —Box 7234, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

INDUSTRIAL Banking Company offer appointment to young Solicitor (preferably with some litigation experience) with a view to his taking charge of their collection department and dealing with consequential legal work. The post offers prospects to able man interested in the legal side of industry. The Company operates a pension scheme and would assist, if necessary, in the provision of a car and housing accommodation. Salary £1,000 upwards according to experience.—Reply to The Chairman, The Peterborough Investment Company, Ltd., 18 Priestgate, Peterborough.

LARGE Cardiff firm requires young solicitor with aptitude for Advocacy and Common Law. Commencing Salary up to £1,500 per annum. A recently qualified man who is very keen need not be afraid to reply. Assistance with Housing and a car if necessary and there are definite partnership prospects within two years for an ambitious hardworking young man of ability.—Box 7244, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LARGE Cardiff firm requires unadmitted clerk particularly experienced in Employers Liability and Trade Union Work. Commencing salary up to £1,500 per annum. Assistance with housing if necessary and also the use of a car. Excellent prospects.—Box 7245, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor urgently required FINCHLEY firm, Salary £1,300–£1,500 according experience. Mainly Conveyancing though all-round experience including commercial work preferred.—Apply Box 7247, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING and Probate Assistant (admitted or unadmitted) required.—Charles & Co., 54a Woodgrange Road, Forest Gate, London, E.7. Maryland 6167.

MANCHESTER.—Male Claims Correspondence Clerk, age 25 to 45, with some knowledge of Common Law with reference to Employers and Public Liability, required by Insurance Company. Salary £500 to £850 according to age and experience. Financial assistance in taking C.I.I. exams and annual bonus for each part. Non-contributory Pension Scheme.—Box 7254, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR required in West Surrey practice for general work. Salary £800–£1,000 per annum. Flat available £208 per annum exclusive.—Box 7225, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND-ON-SEA.—Assistant Solicitor required for expanding practice mainly conveyancing and probate. Opportunity for energetic young man. Prospects of partnership, salary by arrangment.—write stating age and experience to Box 7116, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SIDCUP, Kent (close by station).—Shorthand typist with upwards of six years' conveyancing experience required. Salary according to experience.—Ring Footscray 8285.

AN ASSISTANT Solicitor age under 35 required in the Legal Department of a London Insurance Office to deal mainly with conveyancing and company matters. Commencing salary dependent on age and experience. Pension schemes in operation. Excellent prospects for the right applicant.—Box 7252, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

NORTHUMBERLAND.—Assistant Solicitor or unadmitted managing clerk required in old-established Alnwick firm. Mainly probate and conveyancing. Good prospects for right person.—Box 7253, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WOLVERHAMPTON.—Assistant Solicitor required for rapidly growing one-man Practice. Partnership assured for the right man willing to tackle any kind of work.—Box 7255, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BRIGHTON.—Assistant Solicitor required. Definite partnership prospects on favourable terms after reasonable trial. Mainly Conveyancing and Probate. Please write with full details.—Box 7223, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REIGATE, Surrey.—Assistant Solicitor required by busy general practice, including conveyancing, probate, common law and advocacy. Write giving full details of age, experience and salary required.—Box 7224, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (aged 23–28) required for position of responsibility in large general practice; Southern England; substantial salary; progressive; very general work; newly admitted man very acceptable; assistance given if necessary in moving and domestic expenses.—Please write age and experience to Box 7226, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST END Solicitors require young Solicitor as assistant to principals for varied work but principally conveyancing. Newly admitted man considered provided willing and energetic. Good prospects of advancement. Salary according to merits, but minimum £900.—Box 7237, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED Litigation Managing Clerk required by E. Edwards, Son & Noice, London, E.6. Salary according to experience, in the region of £1,000 per annum.

READING.—Admitted Clerk required with experience of a General Practice and to assume responsibility for litigation and advocacy with prospects of a partnership. Please write with full particulars and salary required.—Box 7207, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

OLD-ESTABLISHED Tunbridge Wells solicitors require Assistant Solicitor or Managing Clerk experienced principally in conveyancing and/or probate. Salary by arrangement. Write stating age and experience.—Box 7208, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING experienced assistant urgently required by FINCHLEY Solicitors Salary of £1,250 offered to competent man. —Apply Box 7246, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ESSEX.—Assistant Solicitor required by established practice for varied work, including advocacy and litigation. Salary according to experience, partnership considered after probationary period.—Apply, Raggett, Wakefield & Co., Ongar, Essex.

APPOINTMENTS WANTED

SOLICITOR (50) living in Brighton, and employed in City of London office in conveyancing, desires engagement preferably in Brighton and Hove area in conveyancing only. Admitted 1934, Small office might suit. Advertiser who is unmarried is prepared to work hard. Salary of £1,100 suggested. Might assist in small amount of probate in an emergency.—Box 7229, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR admitted 3 years with Public School education seeks progressive position in Liverpool. Conveyancing and probate but no litigation.—Box 7248, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MANAGING CLERK (Age 55) Extensive experience Conveyancing, Rating, Planning and other general legal work including managerial and administration duties partly in Industry and partly in Private practice. In good health and desirous of change for personal reasons.—Box 7249, Solicitors Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR due to open private practice requires temporary position for three months. General experience. Little or no supervision needed. Willing to do anything.—Box 7258, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PRACTICES AND PARTNERSHIPS

SHEFFIELD. Common Law Solicitor required to take over Common Law Department of sizeable firm. Some advocacy. Partnership available to energetic man after trial period.—Box 7250, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR. Advocate required by old established firm South Yorks border. Excellent partnership prospects. Salary from £1,100 per annum.—Box 7251, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROPERTY INVESTMENTS

INVESTMENTS REQUIRED

ACTIVE enquiries in hand for good-class shop investments, blocks of flats, freehold ground rents and weekly investments of all types.—Details in confidence to Cowdrey, Phipps & Hollis, F.A.L.P.A., Investment Department, 140 Park Lane, Marble Arch, W.1. MAYfair 1329 (2 lines).

FINANCIAL

INVESTMENT in Real Estate in Channel Islands offers obvious advantages.—Details from Box 7256, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUND business of Builders' Merchant in Midlands; Limited Company; for sale at reasonable price.—Box 7257, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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★ Classified Advertisements ★

continued from p. xxii

FINANCIAL—*continued*

COMPANY FORMATION— A SPECIALIST SERVICE

Ready formed Companies available £20 for immediate transfer inclusive Fee

Highest quality printing of Statutory Documents, etc., ensures entire satisfaction. All types of trading companies in stock. We have an established reputation also for speedy service in the registration of companies to special requirements—8 or 15 days service from min. fee 10 guineas. No extras. Company and Trade Mark searches. Service available only to the professions. Full details and specimen Mem. and Articles of Association from Dept. SJ.1, HART & CO. (BUSH HOUSE) LTD., IMPERIAL HOUSE, KINGSWAY, LONDON, W.C.2. Tem 1938 and Cov 1609.

A BARGAIN, £25 complete, brand new ready-made Co. Regns. Guaranteed no trading (England or Scotland); all trades available now, including Property Dealing; Mining/Quarrying; Garages; Electrical; Glass/China; Drapers; Packers; Plastics; H.P. Finance; Salvage; Banking, Nominees; Secretarial; Stocks/Shares; Property; Investments; Caravans, etc. (specially prepared for each trade). Write, phone or call (English Registrations) BUSINESS ECONOMY Co., Regns., Ltd. (Dept. 14), 156 Strand, London, W.C.2 (Tem. 8377/2294); (Scottish Registrations to 19 Walker Street, Edinburgh, 3, (Cal. 1167/9). Read "Advantages of trading as a limited Company" (3/- post free). Ltd. Co. may save you personal tax. We also have seven days Co. Regn. service with your own choice of name £21 (plus stamp duty).

LIMITED COMPANY REGISTRATIONS. Ready-made companies, guaranteed no trading, **£18** complete. Also seven-day own name registration service. Memo., Articles, Registers, minute book, shares and seal **£9**. Trade Mark and Company Searches.—Graeme & Co., 61 Fairview Avenue, Gillingham, Kent. Rainham (Kent) 82558.

PUBLIC COMPANY SEEKS ACQUISITION OF ESTABLISHED BUSINESSES making minimum £20,000 p.a. subject tax only. Executive Directors, Management and professional advisors retained. Strictest confidence observed.—Box 7231, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PERSONAL

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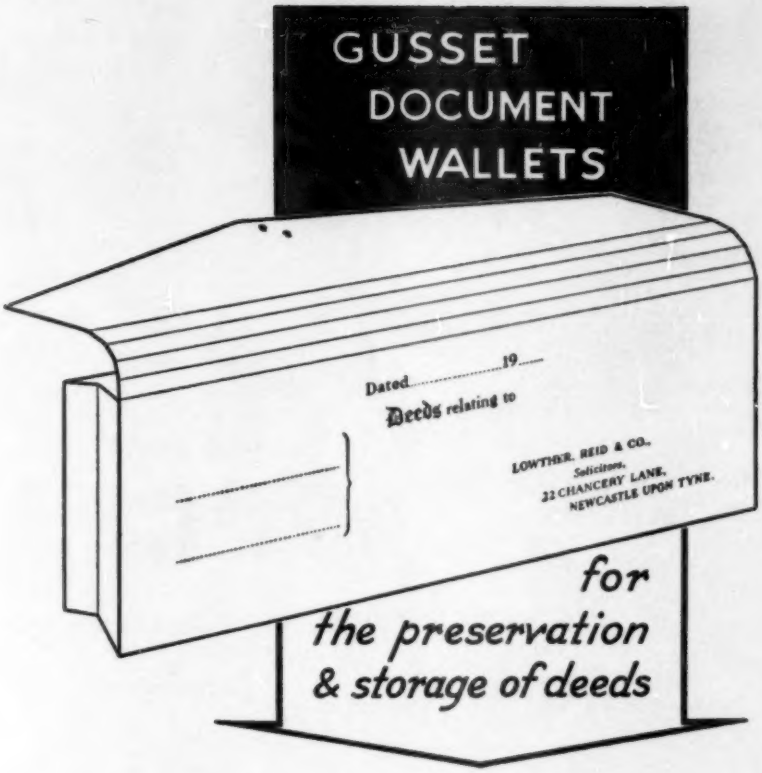

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